



MINUTES
CITY COMMISSION MEETING
TUESDAY, OCTOBER 5, 2010
7:00 P.M.

The Regular Meeting of the City Commission was held at 7:00 p.m. in the City Commission Room. Mayor Bruce Snead and Commissioners James E. Sherow, Loren J. Pepperd, Jayme Morris-Hardeman, and Bob Strawn 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 58 interested citizens.

PLEDGE OF ALLEGIANCE

Mayor Snead led the Commission in the Pledge of Allegiance.

PROCLAMATIONS

Mayor Snead proclaimed October 3-9, 2010, ***National 4-H Week***. Haley Grable, Chair, and other 4H members, Strong Satellites 4H Club, were present to receive the proclamation.

Mayor Snead proclaimed October 24-30, 2010, ***Manhattan Association of REALTORS® Appreciation Week***. Eileen Meyer, President, Manhattan Association of REALTORS, was present to receive the proclamation.

Mayor Snead proclaimed October 2010, ***2010 Housing America Campaign***. Karen Davis, Director of Community Development, and JoAnn Sutton, Director, Manhattan Housing Authority, were present to receive the proclamation.

PUBLIC COMMENTS

Mayor Snead opened the public comments.

PUBLIC COMMENTS (CONTINUED)

Dee R. Ross, 8628 Hannah Lane, voiced concerns with the sewer rates being charged to residents of Blue Township in Pottawatomie County and requested that Joint City/Riley County/Pottawatomie County meetings be televised so that residents can see how taxpayer dollars are being used. He then asked if the Commissioners employed by Kansas State University were told individually what was expected of them by the President of the University.

Mayor Snead responded to questions raised by Mr. Ross.

Paula Fullwood, 826 Allison Avenue, asked about the 48-hour parking ordinance and public parking restrictions in residential areas. She voiced concern with her experience with enforcement on parking on one side of Allison Avenue and asked that consideration be given to street sweeping and snow removal.

Bill Frost, City Attorney, provided clarification on the ordinance concerning parking on public streets.

Mayor Snead responded to questions and asked that Ms. Fullwood talk with the City Engineer about her specific questions and concerns.

Sam Brinton, 331 North 17th Street, representing Kansas State University Student Senate as speaker pro-tem, informed the Commission that the Student Senate passed a resolution that supports an ordinance amending Chapter 10 of the Manhattan Code of Ordinances pertaining to civil rights with respect to adding sexual orientation and gender identity as protected classes. He provided additional information on the item and stated that all citizens should be treated equally.

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

COMMISSIONER COMMENTS

Commissioner Morris-Hardeman informed the community that October is Domestic Violence Awareness Month and provided additional information about domestic violence awareness initiatives and statistics. She stated that the Crisis Center has a 24-hour hot line to call when help and support is needed.

Commissioner Pepperd stated that the Flint Hills Area Home Builder's Fall Parade of Homes event is scheduled for this Friday, October 8, through Sunday, October 10, 2010. He said there are 21 homes on the Fall Parade of Homes and encouraged everyone to attend.

COMMISSIONER COMMENTS (*CONTINUED*)

Commissioner Sherow responded to questions raised by Mr. Ross. He then commented about concerns expressed earlier regarding parking on public streets and asked that consideration be given to implementing predictable days for street cleaning of public streets and coordination for removal of vehicles during those times.

Commissioner Strawn responded to comments made by Mr. Ross and stated that having the right to petition is important in a democracy and is how democracy works best.

Mayor Snead reiterated his experience with working relationships with Kansas State University's administration. He then informed the community that during the Discussion/Briefing Session, prior to the Commission meeting, the Commission received updates on agenda items for this meeting; received a fire station building report from Chief Snyder; discussed funding construction issues with ATA and Riley County; discussed calendar items of the Commission; reviewed levee recertification information and issues; and heard a report from Commissioner Pepperd on the recent Riley County-Manhattan Health Board meeting and items discussed. He informed citizens that he and other Commissioners will be attending the 100th Anniversary of the Kansas League of Municipalities Conference in Overland Park and provided additional information about the League and his service on the League's Board of Directors.

CONSENT AGENDA

(* denotes those items discussed)

MINUTES

The Commission approved the minutes of the Regular City Commission Meeting held Tuesday, September 21, 2010.

CLAIMS REGISTER NO. 2651

The Commission approved Claims Register No. 2651 authorizing and approving the payment of claims from September 15, 2010, to September 28, 2010, in the amount of \$4,604,453.74.

LICENSE – CEREAL MALT BEVERAGE

The Commission approved an annual Cereal Malt Beverage Off-Premises License for Asian Market of Manhattan, 2304 Stagg Hill Road, Suite D.

FINAL PLAT – DOWNTOWN ENTERTAINMENT DISTRICT ADDITION, UNIT TWO

The Commission accepted the easements and rights-of-way, as shown on the Final Plat of the Downtown Entertainment District Addition, Unit Two, Commercial Planned Unit Development, generally located south of Pierre Street and east of South 4th Street, based on conformance with the Manhattan Urban Area Subdivision Regulations.

CONSENT AGENDA (CONTINUED)

* **ORDINANCE NO. 6841 - 2009 International Building Code**

Commissioner Pepperd stated that members in the building industry have questions about safe rooms and requested that the item be tabled until those concerns have been addressed.

Ryan McDonald, McDonald Construction, Wamego, Kansas, representing the Board of Directors, Flint Hills Area Homebuilders, voiced concerns with the requirements being proposed for storm shelters for slab-on-grade homes, safe rooms, and the re-inspection fee process and the need for additional clarification. He provided background information on his construction experience and stated that the new requirements to meet International Codes would result in additional costs and could push people away from starter, slab-on-grade homes. He then responded to questions from the Commission and requested that the item be tabled and looked at further.

Brad Claussen, Building Official, responded to questions from the Commission on the adoption and timeframe of the proposed ordinances. He provided additional information on the definition of below-grade housing and provided information on storm shelters, safe rooms, proposed building codes, material specifications, and approximate costs for the construction of storm shelters. He then responded to questions from the Commission.

Ron Fehr, City Manager, and Brad Claussen, Building Official, provided clarification on the options for the Commission regarding the item and if the item was tabled.

Item was tabled per consensus of the Commission.

* **ORDINANCE NO. 6842 - 2009 International Existing Buildings Code**

Item was tabled per consensus of the Commission.

* **ORDINANCE NO. 6843 - 2009 International Fire Code**

Item was tabled per consensus of the Commission.

* **ORDINANCE NO. 6844 - 2009 International Fuel Gas Code**

Item was tabled per consensus of the Commission.

* **ORDINANCE NO. 6845 – 2009 International Mechanical Code**

Item was tabled per consensus of the Commission.

* **ORDINANCE NO. 6846 – 2009 International Plumbing Code**

Item was tabled per consensus of the Commission.

CONSENT AGENDA (CONTINUED)

* **ORDINANCE NO. 6847 – 2009 International Property Maintenance Code**

Item was tabled per consensus of the Commission.

* **ORDINANCE NO. 6848 – 2009 International Residential Code**

Item was tabled per consensus of the Commission.

* **ORDINANCE NO. 6849 - 2008 National Electrical Code**

Item was tabled per consensus of the Commission.

* **RESOLUTION NO. 100510-A – DESIGNATION – CITY OFFICERS**

Jerry Snyder, Fire Chief, informed the Commission that 10,043 rental units have registered so far and provided additional information on the Rental Inspection Program.

The Commission approved Resolution No. 100510-A confirming the designation of certain additional positions (Rental Inspection Officers, I and II) as “City Officers,” pursuant to Charter Ordinance No. 39, giving the positions the authority to issue complaints for violations of City ordinances.

* **ORDINANCE NO. 6850 – ISSUE RECOVERY ZONE FACILITY BONDS – GTM, SPORTSWEAR, INC.**

Commissioner Strawn stated that he would be abstaining from the item because of his son’s employment with GTM.

Lyle Butler, President, Manhattan Area Chamber of Commerce, urged the Commission to support the item and provided the positive impacts that GTM is making in our community and changes that have been made to the economic development model.

The Commission approved Ordinance No. 6850 authorizing the issuance of Recovery Zone Facility Bonds (\$2,170,000.00) and Industrial Revenue Bonds (\$980,000.00) for GTM Sportswear, Inc., located at 520 McCall Road.

FIRST READING – 2011 AGGIEVILLE BUSINESS IMPROVEMENT DISTRICT FEES

The Commission approved first reading of an ordinance continuing the establishment of the Aggieville Business Improvement District with the proposed changes in fees and District boundaries, and levying Business Improvement Service Fees for the year 2011, on businesses located within the District.

CONSENT AGENDA (CONTINUED)

PUBLIC HEARING – 2011 DOWNTOWN BUSINESS IMPROVEMENT DISTRICT FEES

Mayor Snead opened the public hearing.

Hearing no comments, Mayor Snead closed the public hearing.

FIRST READING – 2011 DOWNTOWN BUSINESS IMPROVEMENT DISTRICT FEES

The Commission approved first reading of an ordinance continuing the establishment of the Downtown Business Improvement District with the proposed changes in fees and District boundaries, and levying Business Improvement Service Fees for the year 2011, on businesses located within the District.

FIRST READING – 2010 STANDARD TRAFFIC ORDINANCE

The Commission approved first reading of an ordinance incorporating by reference the Standard Traffic Ordinance for Kansas Cities, Edition of 2010.

FIRST READING – NO PARKING – VISTA LANE

The Commission approved first reading of an ordinance establishing a “No Parking Anytime” zone along the east and south side of Vista Lane.

FIRST READING – INSTALL STOP SIGNS – ENOCH LANE, KRETSCHMER DRIVE

The Commission approved first reading of an ordinance installing stop signs on Enoch Lane at US 24 Frontage and on Kretschmer Drive at Levee Drive.

* **RESOLUTION NO. 100510-B – ESTABLISH – MUNICIPAL AUDIT COMMITTEE**

Commissioner Strawn complimented staff in providing transparency and analysis of the audit process. He encouraged those in the accounting profession and interested in serving on the Audit Committee, to step-up and volunteer.

The Commission approved Resolution No. 100510-B establishing a Municipal Audit Committee.

CONSENT AGENDA (CONTINUED)

RE-ALLOCATION OF FUNDS – ENERGY EFFICIENCY AND CONSERVATION BLOCK GRANT

The Commission approved re-allocating excess Energy Efficiency and Conservation Block Grant funds for Traffic Signal Synchronization in the amount of \$100,000.00, Aggieville Streetlight Retrofits in the amount of \$30,000.00, and Take Charge Energy Challenge in the amount of \$14,400.00, for a total amount of \$144,400.00, and authorized City Administration and the Mayor to execute any grant application documents that may be necessary to facilitate these projects.

PUBLIC HEARING - AMEND – COMMUNITY DEVELOPMENT BLOCK GRANT CITIZEN PARTICIPATION PLAN

Mayor Snead opened the public hearing.

Hearing no comments, Mayor Snead closed the public hearing.

AMEND – COMMUNITY DEVELOPMENT BLOCK GRANT CITIZEN PARTICIPATION PLAN

The Commission approved the CDBG Citizen Participation Plan amendments.

AGREEMENT – DESIGN – MCCALL ROAD CONNECTION (ST1014)

The Commission authorized the Mayor and City Clerk to execute an agreement in the amount of \$505,335.00 with Alfred Benesch and Company (formerly HWS Consulting Group), of Manhattan, Kansas, for the design of improvements for the McCall Road Connection (ST1014).

AGREEMENT – WILDCAT CREEK ROAD ALTERNATE ALIGNMENT STUDY (ST1016)

The Commission authorized the Mayor and City Clerk to execute an agreement in the amount of \$35,000.00 with SMH Consultants, of Manhattan, Kansas, for the Wildcat Creek Road Alternate Alignment Study (ST1016) between K-18 and the Kansas Veteran's Cemetery and the preliminary design of improvements for that route.

APPLICATION – KDOT CORRIDOR MANAGEMENT CONSTRUCTION PROJECT PROGRAM

The Commission expressed interest in pursuing the funds from the KDOT Corridor Management Construction Project Program for the relocation of the Wastewater Treatment Plant Road, McCall Road Improvements ~ Reinforced Concrete Boxes under US-24, and US-24 and Town Center Mall Entrance double left turn lanes on Tuttle Creek Boulevard, and directed City Administration to proceed with submitting these projects to KDOT.

CONSENT AGENDA (CONTINUED)

INTENT TO PURSUE – KANSAS PUBLIC WATER SUPPLY LOAN FUND – KONZA WATER MAIN EXTENSION (WA1006)

The Commission authorized the Mayor to execute the Notification of Intent to Pursue a Kansas Public Water Supply Loan Fund loan for the Konza Water Main Extension (WA1006).

* **DEVELOPMENT AGREEMENT – STONE POINTE TOWNHOMES, UNIT ONE - SANITARY SEWER IMPROVEMENTS (SS1012)**

Ron Fehr, City Manager, responded to questions from the Commission and provided additional background information on the item and private development process.

Mark Bachamp, Schultz Construction, Inc., responded to questions from the Commission and stated that this portion of the project is being done privately, primarily to keep the special assessments at a certain level to be marketable.

The Commission authorized the City Manager to execute the Development Agreement with Stone Pointe Land Company to provide for the public sanitary sewer (SS1012) associated with the Stone Pointe Townhomes, Unit One, Development.

* **CHANGE ORDER NO. 1 – FLINT HILLS DISCOVERY CENTER (DC0901)**

Ron Fehr, City Manager, responded to questions from the Commission and purpose of an owner's allowance.

Bob Workman, Director, Flint Hills Discovery Center, provided additional information on the item and responded to questions from the Commission.

The Commission approved Change Order No. 1 to the Guaranteed Maximum Price for the Discovery Center to fund three approved add alternates, and create an owner's allowance in the amount of \$566,116.00.

* **CHANGE ORDER NO. 2 – FLINT HILLS DISCOVERY CENTER (DC0901)**

Ron Fehr, City Manager, provided clarification on the item and responded to questions from the Commission.

Bob Workman, Director, Flint Hills Discovery Center, responded to questions from the Commission on the fee being charged by McGowan Gordon and stated the importance of the geothermal wellfield and connectivity of the building.

CONSENT AGENDA (CONTINUED)

* **CHANGE ORDER NO. 2 – FLINT HILLS DISCOVERY CENTER (DC0901) (CONTINUED)**

The Commission approved Change Order No. 2 to the Guaranteed Maximum Price for the Discovery Center to accommodate construction of Colorado Street (east of 3rd Street) and the parking lot (ST0915) resulting in a net increase in the amount of \$646,656.00 (+4.44%) to the contract with McCownGordon Construction, of Kansas City, Missouri.

CHANGE ORDER NO. 1 – GRANDE BLUFFS AT MILL POINTE, UNIT ONE – STORM SEWER (ST1008) AND SANITARY SEWER (SS1008) IMPROVEMENTS

The Commission approved Change Order No. 1 for the Grande Bluffs at Mill Pointe, Unit One, storm sewer (ST1008) and sanitary sewer (SS1008) improvements, resulting in a net increase in the amount of \$17,984.00 (+5.63%) to the contract with Manhattan Trenching, Inc., of Manhattan, Kansas.

CHANGE ORDER NO. 13 – RUNWAY 3/21 SAFETY AREA IMPROVEMENTS (AIP 37/38)

The Commission approved Change Order No. 13 for the Runway 3/21 Safety Area Improvements project (AIP 37/38), resulting in a net increase in the amount of \$17,121.26 (+2.09%) to the contract with Smoky Hill, LLC, of Salina, Kansas.

CHANGE ORDER NO. 3 – KANSAS STATE UNIVERSITY CENTER FOR CHILD DEVELOPMENT PLAYGROUND (SP1007)

The Commission approved Change Order No. 3 for the Kansas State University Center for Child Development Playground Project (SP1007), resulting in a net increase in the amount of \$15,873.00 (+7.44%) to the contract with First Construction, LLC, of Lawrence, Kansas.

PURCHASE OF REAL ESTATE AGREEMENT – HUNTER TRACT (WA0622)

The Commission approved the proposed agreement; authorized City Administration to negotiate and finalize an agreement with Hunter Living Trust for the rights-of-way, park land, and temporary easement associated with the Miller Parkway Roadway and Water Main project (WA0622); and authorized the Mayor and City Clerk to execute the finalized agreement on behalf of the City.

CONSENT AGENDA (CONTINUED)

NEGOTIATE CONTRACT – AFRICAN-AMERICAN CULTURAL RESOURCES PROJECT

The Commission accepted the recommendation of the Selection Committee and authorized City Administration to negotiate a contract for professional services with Three Gables Preservation, of Nederland, Colorado, for the African-American Cultural Resources Project.

SECOND AMENDMENT – AIR SERVICE AGREEMENT

The Commission authorized City Administration to finalize and the Mayor and City Clerk to execute the Second Amendment to the Air Service Agreement with American Eagle Airlines, Inc., and the Manhattan Area Chamber of Commerce.

After discussion, Commissioner Sherow moved to approve the consent agenda, as read with the exception of Item E, Ordinance Nos. 6841-6849 adopting the 2009 editions of the International Code package and the 2008 National Electrical Code, being tabled for consideration and discussion of issues related to the reinspection fees and clarification on the construction of safe rooms for slab-on-grade homes. Commissioner Pepperd seconded the motion. On a roll call vote, motion carried 5-0, with the exception of Item G, Ordinance No. 6850 – Issue Recovery Zone Facility Bonds – GTM, Sportswear, Inc., which carried 4-0, with Commissioner Strawn abstaining, and with the exception of Item T, Change Order No. 1 – Flint Hills Discovery Center (DC0901), which carried 4-1 with Commissioner Strawn voting against the item.

GENERAL AGENDA

CONFERENCE CENTER MANAGEMENT SELECTION

Jason Hilgers, Assistant City Manager, presented background and additional information received regarding the Conference Center management selection item and process.

Terry Dody, HCW Inc., reiterated that Kinseth Hospitality is the best choice for managerial services and asked the Commission for approval.

After discussion, Commissioner Morris-Hardeman moved to remove the item from the table and approve the selection of Kinseth Hospitality, of North Liberty, Iowa, by HCW Development as the manager of the Hilton Garden Inn and Conference Center in the South Redevelopment District. Commissioner Sherow seconded the motion.

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

GENERAL AGENDA (CONTINUED)

FIRST READING - AMENDING FINAL DEVELOPMENT PLAN - 17TH STREET PROPERTIES COMMERCIAL PLANNED UNIT DEVELOPMENT

Eric Cattell, Assistant Director for Planning, presented the item and provided additional background information on the current sign and on the Planned Unit Development's signage regulations.

Doug Maryott, managing member of the project, 17th Street Properties Development, presented additional information on the item and stated that he thought the existing billboard sign was grandfathered and asked that it remain to improve exposure for the new hotel. He then provided additional information on the proposed signs and responded to questions from the Commission.

Commissioner Strawn stated that this is an example of well-intended regulations that run smack into common sense. He said the sign was never a problem before and that it does not make sense to get rid of it when it has been there for 20 years, and that there are already numerous signs and billboards on Fort Riley Boulevard. He urged the Commission to override the Planning Board on this issue.

Commissioner Morris-Hardeman stated that she agreed with Commissioner Strawn and stated that a precedent is not being set in allowing them to keep an existing sign. She then voiced concern with a 3-1 vote by the members of the Manhattan Urban Area Planning Board.

Commissioner Pepperd concurred with comments stated by the Commission and said that he would support overriding the Manhattan Urban Area Planning Board. He complimented the developer on the project and improvements made to the area.

Commissioner Sherow voiced support of the recommendation provided by the Manhattan Urban Area Planning Board to eliminate the existing pole sign as it is, however, he stated that he would reconsider a smaller sign on a time-limited basis. He also voiced concern with having only four members of the Planning Board participating on this item.

Mayor Snead appreciated the applicant's consideration and agreed with the majority of his fellow Commissioners that the existing sign should remain. He stated that this was missed by the engineers, the applicant, City staff, and others. He stated that it is not appropriate to take down the existing sign and was not concerned that it would set a precedent.

Eric Cattell, Assistant Director for Planning, provided additional information on the pole signs being proposed and asked for clarification on the three conditions of approval, as stated on page six of the memorandum. He responded to questions from the Commission.

GENERAL AGENDA (CONTINUED)

FIRST READING - AMENDING FINAL DEVELOPMENT PLAN - 17TH STREET PROPERTIES COMMERCIAL PLANNED UNIT DEVELOPMENT (CONTINUED)

After discussion, Commissioner Strawn moved to override the Manhattan Urban Area Planning Board's recommendation and approve first reading of an ordinance amending the PUD and Ordinance No. 6768 to allow the existing pole sign as described in option two (*See Attachment No. 1a*) as presented this evening, along with the amendment to allow banner signs and a reduction of parking based on specifically stated findings.

Mayor Snead asked for clarification on the motion and asked if the motion included condition of approval number one: that the grand opening banner signs shall be permitted for a period not to exceed thirty (30) consecutive days.

Commissioner Strawn stated that was correct.

After further discussion and clarification, the motion by Commissioner Strawn now reads:

"Override the Manhattan Urban Area Planning Board's recommendation and approve first reading of an ordinance amending the PUD and Ordinance No. 6768, to allow the existing pole sign as described in Option Two (submitted by the applicant showing a painted pole with limestone base, *See Attachment 1a*) this evening, along with the amendment to allow banner signs and a reduction of parking based on specifically stated findings, and, to include condition of approval number one: that the grand opening banner signs shall be permitted for a period not to exceed thirty (30) consecutive days." (*See Attachment No. 1b*)

Eric Cattell, Assistant Director for Planning, provided clarification on the motion and stated that Option Two (*See Attachment 1a*) is the existing sign with a modified base.

Mayor Snead seconded the motion.

After additional discussion of the Commission, motion carried 4-1, with Commissioner Sherow voting against the motion.

FIRST READING - AMEND FINAL DEVELOPMENT PLAN - LOT 1, RAMADA INN COMMERCIAL PLANNED UNIT DEVELOPMENT

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

Trevor Wood, SSC, Overland Park, Kansas, informed the Commission that a neighborhood meeting was held with no opposition and that the infrastructure combined will be less visually intrusive. He then responded to questions from the Commission.

GENERAL AGENDA (CONTINUED)

FIRST READING - AMEND FINAL DEVELOPMENT PLAN - LOT 1, RAMADA INN COMMERCIAL PLANNED UNIT DEVELOPMENT (CONTINUED)

After discussion, Commissioner Sherow moved to approve first reading of an ordinance amending the Final Development Plan for Lot 1, Ramada Inn Commercial Planned Unit Development, generally located at 1641 Anderson Avenue, and Ordinance No. 6248, for proposed telecommunications facilities, based on the findings in the Staff Report (*See Attachment No. 2*), with the four conditions of approval, as recommended by the Manhattan Urban Area Planning Board. Commissioner Pepperd seconded the motion. On a roll call vote, motion carried 5-0.

FIRST READING – REZONE - TRACT A, SCENIC MEADOWS ADDITION, UNIT THREE

Eric Cattell, Assistant Director for Planning, presented the item and responded to questions from the Commission regarding concerns associated with potential residential building in the flood plain area.

After discussion, Commissioner Strawn moved to approve first reading of an ordinance rezoning Tract A, Scenic Meadows Addition, Unit Three, generally located east of Scenic Drive and 400 feet south of the intersection of Fossilridge Drive and Scenic Drive, from R-1/AO, Single-Family Residential District with Airport Overlay District, to R/AO, Single-Family Residential District with Airport Overlay, based on the findings in the Staff Report (*See Attachment No. 3*) and the recommendation of the Planning Board. Commissioner Pepperd seconded the motion.

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

FIRST READING - ESTABLISH - FLINT HILLS DISCOVERY CENTER BOARD

Bob Workman, Director, Flint Hills Discovery Center, presented the item. He then responded to questions from the Commission regarding qualifications and expertise for Advisory Board members.

Ron Fehr, City Manager, provided clarification on the role of the Flint Hills Discovery Center Advisory Board.

After discussion, Commissioner Sherow moved to approve first reading of an ordinance establishing the Flint Hills Discovery Center Advisory Board. Commissioner Morris-Hardeman seconded the motion. On a roll call vote, motion carried 5-0.

The Commission took a brief recess.

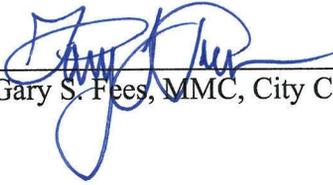
EXECUTIVE SESSION

At 9:50 p.m., Mayor Snead moved to recess into Executive Session until 10:30 p.m. for the purpose of consulting with the City Attorney and Assistant City Attorney regarding matters that are deemed privileged under the attorney/client relationship. Commissioner Sherow seconded the motion. On a roll call vote, motion carried 5-0.

At 10:30 p.m., the Commission reconvened with Mayor Snead and Commissioners Sherow, Pepperd, Morris-Hardeman, and Strawn in attendance. Mayor Snead moved to come out of Executive Session and adjourn. Commissioner Sherow seconded the motion. On vote, motion carried 5-0.

ADJOURNMENT

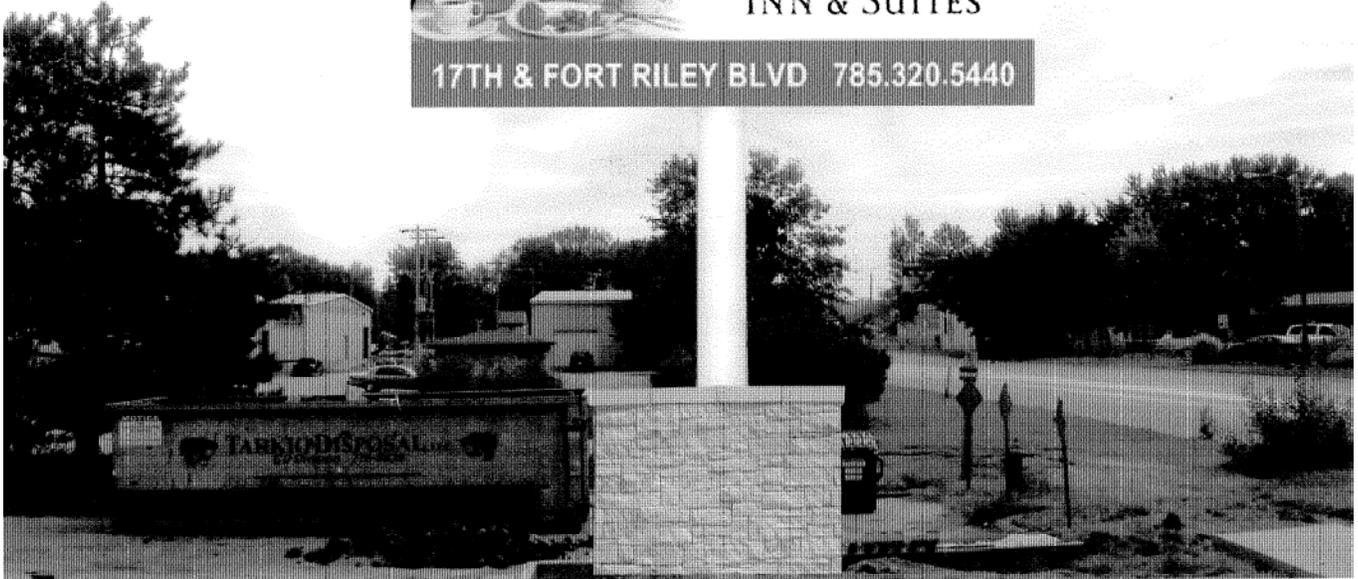
At 10:31 p.m. the Commission adjourned.



Gary S. Fees, MMC, City Clerk

Attachment No. 1a

Option Two
Submitted by Applicant to City Commission on Oct. 5, 2010



STAFF REPORT

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

BACKGROUND

APPLICANT: 17th Street Properties – Lee Borck.
ADDRESS: 222 Southwind, Manhattan KS 66503.

OWNER: 17th Street Properties – Lee Borck.
ADDRESS: 222 Southwind, Manhattan KS 66503.

LOCATION: Southeast of the intersection of S. 17th Street and Yuma Street intersection;
Lot 17th Street Properties Addition.

AREA: 2.07 acres.

DATE OF PUBLIC NOTICE PUBLICATION: Thursday, August 19, 2010.

DATE OF PUBLIC HEARING: PLANNING BOARD: Thursday, September 9, 2010.

CITY COMMISSION: Tuesday, October 5, 2010.

DESCRIPTION OF PROPOSED AMENDMENT: Amend condition No. 5 of Ordinance No. 6768, approved July 21, 2009. Condition No. 5 states, “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.” Elevations of approved ground signs are attached.

The amendments are proposed to allow:

- An existing two sided former off site advertising (billboard) sign, which is 28.35 feet in height, with each side of the two sided sign 253.75 square feet in area (20.30 feet in width by 12.25 feet in height) located in the southeastern corner of the site to remain on which the hotel and retail center will be advertised., The pole portion of the sign is proposed to be enclosed in limestone and the island will be landscaped.

- Up to two temporary banner signs on the sign face of the existing pole sign up to seven consecutive days for a maximum of five weeks with each banner measuring a maximum dimension of 3feet by 22 feet.
- Remove two off-street parking spaces approved with the Final Development Plan in the location of the sign. A landscaped traffic island around the base of the sign results in the removal of the two off-street parking spaces.

MATTERS TO BE CONSIDERED WHEN AMENDING A PLANNED UNIT DEVELOPMENT

1. 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 applicant states in their written application documents that, “The proposed amendment consists of allowing an existing sign within the PUD to remain. The existing sign is in compliance with Article VI, Section 6-211 (B) as set forth in Sections 6-203 (D)(1), 6-203 (E) and 6-203 (F) of the Manhattan, Kansas Zoning Regulations, dated February 16, 2010. The proposed amendment is consistent with the intent and purpose of the approved PUD and has already promoted the efficient development and preservation of the entire PUD. (See enclosed photographs)”

The proposed amendment to allow the existing pole sign is inconsistent with the approved sign plan and Condition No. 5, which states, “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.” Adequate ground signs are provided to advertise the hotel and retailers.

Allowing on site grand opening banner signs on Lot 1, 17th Street Properties Addition would be consistent with commercial development along Ft. Riley Boulevard.

A reduction of two off-street parking spaces from 138 parking spaces approved with the Final Development Plan to a proposed 136 parking spaces will still provide four more than the minimum 132 parking spaces required.

Attachment No. 1b

Section 6-211 indicates signage for commercial PUDs, as a general rule, follows the requirements of Section, 6-203, C-2, Neighborhood Shopping District, which the proposed PUD odes, in general. Section 6-203 (E) states the maximum height of a sign shall extend no more than 30 feet above the ground, which the existing sign conforms to at 28.35 feet in height.

The existing sign is 253.75 square feet in area per sign face, based on the applicant's drawing. Only one side of a two sided sign is calculated when determining maximum gross surface area. Section 6-203 (D)(1) for ground or pole signs, however, states, "The total surface area of all signs upon a single zoning lot shall not exceed one (1) square foot for each one (1) foot of linear street frontage which abuts the zoning lot. The total surface area of signs which have a common street frontage shall not exceed one (1) square foot for each one (1) foot of said frontage."

There is an existing approved ground sign approximately 100-feet to the west of the existing pole sign (attachment) whose total square footage is 192 square feet in area. In combination the approved sign and existing pole signs total surface area is 445.75 square feet in maximum gross surface area. Lot 1 has a street frontage along Ft. Riley Boulevard of 280 feet. Total maximum surface area shall not exceed 280 square feet in area, as a general rule, assuming the C-2 District requirements are followed. The proposed maximum square footage is 165.75 square feet more than would be allowed. The applicant suggests that the 315 square feet of the unnamed right-of-way along the east side of Lot 1 should be counted towards the total square footage of signage. The sign is clearly oriented towards traffic along Ft. Riley Boulevard and is not oriented to any traffic on the right-of-way on the east side of Lot 1. As proposed, the sign's maximum square footage is applicable to Ft. Riley Boulevard frontage not a combination of two frontages.

Section 6-203(F) indicates the required sign setback is 10-feet. The proposed sign is 8.1 feet from the south lot line and 8.3 feet from the east lot line.

In addition to the Sections cited above, the C-2 District sign requirements, if applied to the PUD, would allow two ground or pole signs for the Ft. Riley Boulevard street frontage if the street frontage exceeds 600 feet in length. The street frontage is 280 feet, or 320 less than the C-2 District requirement.

If the requirements of Section 6-203 are applied to the existing pole sign it would not meet the requirements of the C-2 District, except for height.

2. 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 applicant states, “The changed condition is the existence of a usable sign on the approved PUD that can still be used for promotion of businesses within the PUD. (See enclosed photographs)”

The applicant has verbally indicated the sign was overlooked on the preliminary PUD site plans. The inadvertent oversight of the sign is not a condition of the PUD, which requires the large billboard size sign when adequate signage is allowed as approved.

It is common for commercial development to have banner signs that announce a new business. The reduced parking is a condition created by the proposal to allow the existing pole sign to remain.

Signage conditions for retail centers along Ft. Riley Boulevard between the S. 17th Street and Ft. Riley Boulevard intersection and the S. 3rd Street and Ft. Riley Boulevard intersection reflect a reduction in the number and size of signs associated with the retail centers. The proposed amendment would be inconsistent with the retail center character along Ft. Riley Boulevard.

3. 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 applicant states, “The approved PUD and development within the PUD has already greatly benefited the public health and safety within the PUD and surrounding areas. No longer are there eyesores in the area or concealed areas where crimes could have been committed. The proposed amendment will not detract to this gain of public health and safety in the area. The retention and use of the existing sign will benefit the convenience and general welfare of all businesses in the PUD and not a sole business or person.”

There appears to be no relative gain to the public health, safety, convenience or general welfare that approval of the amendment to allow the existing pole sign would accomplish. The amendment would allow the applicant to use a sign that was overlooked and not included as part of the approved PUD sign plan and not shown on the site plan.

The banner signs would allow the general public to be aware of grand openings. The reduction of off-street parking does not adversely affect the public.

ADDITIONAL MATTERS TO BE CONSIDERED WHEN AMENDING A PLANNED UNIT DEVELOPMENT

- 1. LANDSCAPING:** Landscaping consisting of three shrubs and mulch ground cover is proposed in the island in which the existing sign is proposed. The shrubs are a continuation of the shrubs along the street frontage approved with the current Final Development Plan.
- 2. SCREENING:** Not applicable to the proposed amendment.
- 3. DRAINAGE:** Not applicable to the proposed amendment.
- 4. CIRCULATION:** Two off-street parking spaces will be removed due to the existing pole sign. The amendment notes that 138 off-street parking spaces are provided, 132 off-street parking spaces are the minimum required, and 136 off-street parking spaces are proposed. Adequate off-street parking is provided. There should be no other impact on circulation.
- 5. OPEN SPACE AND COMMON AREA:** Not applicable to the proposed amendment.
- 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. 17th Street. Yuma Street and S. 17th 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. 17th 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 REZONING

- 1. EXISTING USE:** Recently commercial retail center and hotel.

2. PHYSICAL AND ENVIRONMENTAL CHARACTERISTICS: Generally a flat site which drains to the southeast. The perimeter of the commercial retail/hotel site is landscaped space with interior off-street parking.

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. 17th Street, single-family and two-family dwelling units: R-2/TNO Districts.

4. CHARACTER OF THE NEIGHBORHOOD: See above under Additional Matters To Be Considered When Amending a PUD, number 6.

5. SUITABILITY OF SITE FOR USES UNDER CURRENT ZONING: The site is zoned for and constructed as a combination commercial retail center and hotel. Adequate signage is provided for as a part of the approved PUD sign plan.

6. COMPATIBILITY OF PROPOSED DISTRICT WITH NEARBY PROPERTIES AND EXTENT TO WHICH IT MAY HAVE DETRIMENTAL AFFECTS: The commercial PUD is consistent with nearby commercial and industrial properties. While off-site advertising signs (billboards) are located along Ft. Riley Boulevard, signage for retail centers along the street corridor is allowed but is smaller in size and number than an off-site advertising sign.

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 approved PUD. The PUD conforms to the Comprehensive Plan.

8. 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.
- June 15, 2009: Manhattan Urban Area Planning Board recommends approval of rezoning of the 17th Street Properties Commercial PUD from C-2, Neighborhood Shopping District, and C-5, Highway Service Commercial District, to PUD, Commercial Planned Unit Development District.
- July 7, 2009: City Commission approves first reading of an ordinance rezoning the 17th Street Commercial PUD.
- July 21, 2009: City Commission approves Ordinance No. 6768 rezoning the 17th Street Commercial PUD.
- September 10, 2009 Manhattan Urban Area Planning Board, on a vote of 6-0, approved the Final Plat of Lot 1, 17th Street Properties Addition Commercial PUD, based on conformance with the Manhattan Urban Area Subdivision Regulations and approved the Final Development Plan for Lot 1, based on conformance with the approved PUD.
- October 13, 2009 City Commission accepts easements and rights-of-way as shown on the Final Plat of 17th Street Properties Addition Commercial PUD.

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 PUD is in a commercial zoning generally subject to the sign regulations of the C-2 District. The approved PUD is consistent with that general intent. Use of the former billboard sign is not a structural type of sign allowed in the C-2 District. The existing sign does not conform to the C-2 requirements, except for height.

Attachment No. 1b

RELATIVE GAIN TO THE PUBLIC HEALTH, SAFETY AND WELFARE THAT DENIAL OF THE REQUEST WOULD ACCOMPLISH, COMPARED WITH THE HARDSHIP IMPOSED UPON THE APPLICANT: 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. There appears to be no hardship on the owner if the pole sign amendment is denied. The balance of the amendments may be a hardship.

10. ADEQUACY OF PUBLIC FACILITIES AND SERVICES: Public utilities and services are adequate. The sign is located in a utility easement, which the applicant filed after the Final Plat was approved and filed. If the sign remains it cannot interfere with the purpose of the easement.

11. OTHER APPLICABLE FACTORS: None.

12. STAFF COMMENTS: City Administration recommends approval of Amendments of the Final Development Plan and Ordinance No. 6768 to allow grand opening banner signs and a reduction of the required number of off-street parking spaces, and denial of the Amendment to allow the existing pole sign, with the following conditions of approval:

1. Grand opening banner signs shall be permitted for a period not to exceed thirty (30) consecutive days.
2. The existing pole sign shall be removed within sixty (60) days of the date of denial of the Amendment.
3. Upon removal of the existing pole sign, the existing traffic island shall be landscaped as shown on the Amendment Final Development Plan Site Plan dated August 23, 2010.

ALTERNATIVES:

1. Recommend approval of the proposed Amendments of the Final Development Plan of 17th Street Properties Commercial Planned Unit Development, and Ordinance No. 6768, stating the basis for such recommendation.
2. Recommend denial of the proposed Amendments, and Ordinance No. 6768, stating the specific reasons for denial.
3. Modify the proposed Amendments, for specifically stated reasons, stating the basis for such recommendation.
4. Table the proposed Amendments to a specific date, for specifically stated reasons.

POSSIBLE MOTION:

The Manhattan Urban Area Planning Board recommends approval of Amendments of the Final Development Plan and Ordinance No. 6768 to allow grand opening banner signs and a reduction of the required number of off-street parking spaces, and denial of the Amendment to allow the existing pole sign, based on the findings in the Staff Report, with the three conditions of approval recommended by City Administration.

PREPARED BY: Steve Zilkie, AICP, Senior Planner

DATE: September 2, 2010
10037

STAFF REPORT

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

BACKGROUND

APPLICANT: Sprint Nextel and Verizon Wireless – Selective Site Consultants, Inc. J. Trevor Wood.

ADDRESS: 8500 West 110th Street, Suite 300, Overland Park KS 66062.

OWNERS: Manhattan Hospitality Inc., d/b/a Holiday Inn at the Campus; Kansas State University Foundation c/o IRST Community Bank.

ADDRESSES: 1641 Anderson Avenue, Manhattan KS 66502; PO Box 307 Warrensburg MO 64093.

LOCATION: Generally the southeast corner of Anderson Avenue and N. 17th Street; 1641 Anderson Avenue; Lot 1, Ramada Inn, Unit Two, Commercial Planned Unit Development, Manhattan, Kansas.

AREA: 3.16 acres.

DATE OF PUBLIC NOTICE PUBLICATION: Monday, August 30, 2010.

DATE OF PUBLIC HEARING: PLANNING BOARD: Monday, September 20, 2010.

CITY COMMISSION: Tuesday, October 5, 2010.

DESCRIPTION OF PROPOSED AMENDMENT:

Approved Telecom Facilities

Amend Ordinance No. 6248, approved December 4, 2001 and the approved Final Development Plan (drawings attached). Conditions of approval include:

1. Permitted telecommunication facilities shall include antennas and associated equipment, but excludes guyed, lattice, monopole, or other towers.

Attachment No. 2

2. The telecommunication facilities shall be constructed and placed as proposed in the application documents.
3. The telecommunication facilities shall be painted to match the predominant color of the existing building at the location each component is placed.
4. Future telecommunication providers shall submit telecommunication facility plans and documents as a Final Development Plan application to the Manhattan Urban Area Planning Board for review and approval, to insure that any future proposed telecommunication facility is designed to be compatible with the building and site.

Proposed amendments

The proposed amendments include relocation of telecommunications facilities and their placement (condition 2 above), as well as increases in antenna heights and location (Article XII, Telecom Structures, Section 12-116, Manhattan Zoning Regulations).

Telecommunications Facilities are defined in Article XII:

Any cables, wires, lines, wave guides, antennas and any other equipment or facilities, including buildings, shelters or cabinets that house telecommunications providers' equipment, associated with the transmission or reception of communications which a person seeks to locate or has installed upon or near a commercial tower or antenna support structure.

In the case of the PUD, the antenna support structure is the hotel building.

Proposed amendments include:

- Relocating unscreened 6 foot tall equipment from the hotel's roof, which is at a height of 56 feet 10 inches, to a lower roof on the south side of the hotel, which is approximately 14 feet 5 inches in height measured from the ground. The proposed 10 foot five 5 screen walls on the lower roof will enclose equipment space for Sprint and Verizon. Screen walls will be painted to match the hotels exterior. Cables extending from the equipment space will be enclosed in cable ladders, painted to match the building. Proposed roof access screen walls will be painted to match the building. Building colors are off white and sand.

- Two sets of 10 feet 9 inch tall antenna are proposed on the south end of the upper roof and set back a minimum of 8 feet from the east and west roof edges. Antenna will be set back about 13 feet from the south edge of the roof. Antenna and support structures will be painted to match the hotels colors. Three foot tall cable trays are centered on the majority of the roof and painted to match the building colors.
- Antenna on the north side of the building will be flush mounted to the hotel's north façade as currently allowed, mounted and painted to match the building's colors.

MATTERS TO BE CONSIDERED WHEN AMENDING A PLANNED UNIT DEVELOPMENT

1. 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 applicants states that, "This project is accessory to the main use of the parent property, which is a hotel and restaurant complex. No new building footprint is proposed on the parent parcel. Future development will not be inhibited, and the project therefore promotes the efficient development and preservation of the PUD."

The proposed amendment is consistent with the approved PUD. Telecommunication facilities including antennas and associated equipment are a permitted use in the PUD. The proposed amendment relocates approved equipment locations and antenna heights on the roof. The proposed amendment is not expected to have a detrimental affect on the efficient development and preservation of the PUD or any future development of PUD. The proposal is for telecommunication antennas on the upper roof and associated equipment on the lower roof and existing building façade, thus the proposed telecommunication facilities will not take up any additional ground space that would limit the growth of the PUD. In addition, the proposed telecommunication antennas are not expected to interfere with the current use or operations of the hotel and restaurant.

2. 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 applicant states that, "The proposed amendment is not made necessary because of changed or changing conditions in or around the PUD. Rather, the amendment is requested to reflect new changes to the equipment location since the PUD was approved."

Attachment No. 2

The amendment is necessary because the hotel's roof was severely damaged after a storm around August, 2009. Antenna sleds were removed and two portable cell towers, also known as cell on wheels (COWs), were set up in the hotel's parking lot along Anderson Avenue. The COWs were allowed on a temporary basis with an understanding that equipment and antenna would be replaced on the roof in conformance with the PUD within a month or two of the roof repair, which occurred around September 2009. The modifications to equipment locations and antenna heights are necessary to improve cellular coverage and updated technology and to remove the COWs.

3. 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 applicants states that, "The proposed amendment will result in a relative gain to the public health, safety, convenience and welfare and is not granted solely to confer a benefit upon a person. To the contrary, this project will benefit more than half of the wireless subscribers in the Manhattan area by improving wireless service in and around Manhattan and Kansas State University campus. The provision of quality wireless service is more than convenience – it improves safety and may also improve response times to emergency incidents."

The relative gain to the public will be increased coverage for cellular communications. While Sprint and Verizon will install the telecommunication facilities and their customers will see the immediate benefits, other carriers, at a future date, may choose to collocate with the proposed facilities. No adverse affects to the public health and safety are expected.

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

- 1. LANDSCAPING:** The proposed amendment does not alter existing landscaping.
- 2. SCREENING:** Lower rooftop equipment will be completely enclosed by screen walls painted to match the building. New roof antenna, on the south end of the upper roof, are not proposed to be screened but will be set back from the roof edge to reduce their visual impact as well as be painted to match the colors of the hotel. Antenna on the north end will be flush mounted to the hotels north façade and painted to match the building. Other proposed accessory structures, cable ladders and roof access screening will be painted to match the building colors.

- 3. DRAINAGE:** The proposed amendment does not require a drainage improvement.
- 4. CIRCULATION:** The proposed amendment does not alter existing circulation or other requirements associated with circulation. Removal of the COWs will make 7 off-street parking spaces available that are otherwise temporarily removed for the hotel's use.
- 5. OPEN SPACE AND COMMON AREA:** The proposed amendment does not alter existing open space or common area.
- 6. CHARACTER OF THE NEIGHBORHOOD:** The neighborhood consists of a mixture of uses including residential, commercial and institutional. The Holiday Inn at the Campus site is in a commercial transition zone along Anderson Avenue that separates KSU institutional uses to the north and residential area to the south.

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

- 1. EXISTING USE:** Holiday Inn at the Campus, a six story hotel and restaurant.
- 2. PHYSICAL AND ENVIRONMENTAL CHARACTERISTICS:** The site contains a hotel complex, an outdoor restaurant patio, off-street parking and landscaped space. Drainage is generally to the east, southeast with storm runoff utilizing storm drain inlets around the perimeter.
- 3. SURROUNDING LAND USE AND ZONING:**
 - (a) NORTH:** Anderson Avenue and K-State University, KSAC Radio Towers; R-2 Two-Family Residential District/University Overlay District, U, University District.
 - (b) SOUTH:** Single family, two family and multiple family dwellings; R-3, Multiple-Family Residential District/University Overlay District.
 - (c) EAST:** Anderson Village, Division of Continuing Education College Court Building, Anderson Village PUD and R-3/VO District.
 - (d) WEST:** Single family, two family, and multiple family dwellings, Wildcat Amoco; R-2/VO District, R-M, Four-Family Residential District/VO District, and Wildcat Amoco PUD.

4. GENERAL NEIGHBORHOOD CHARACTER: See above under number 6.

5. SUITABILITY OF SITE FOR USES UNDER CURRENT ZONING: The site is currently zoned as a commercial PUD for a hotel complex. The current PUD was approved in 1990 (Ordinance No. 4647 attached) with subsequent amendments that allowed for improvements and additions to the site. The PUD was amended in 2001 to allow telecomm equipment and antenna on the uppermost roof top (Ordinance No. 6248 attached). Rooftop equipment and antenna could be placed on the roof subject to Ordinance No. 6248.

6. COMPATIBILITY OF PROPOSED DISTRICT WITH NEARBY PROPERTIES AND EXTENT TO WHICH IT MAY HAVE DETRIMENTAL AFFECTS: The addition of the telecommunication antennas and associated equipment on the lower and upper roofs of the Holiday Inn will not adversely affect the existing PUD or surrounding properties. The proposed telecommunication equipment will be screened and have minimal visual impact on passers-by and surrounding properties. New upper rooftop antennas will be flush mounted on the north façade of the building, in the same manner as existing antenna, will be painted to match the surface on which they are mounted. The proposed upright antenna, which are proposed on the southern part of the hotel's roof, are approximately 5 feet taller in height than the antenna approved in 2001, 6 feet to 10 feet 9 inches.

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 approved PUD. The PUD conforms to the Comprehensive Plan.

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

- 1966 - Ramada Inn approved as a "Special Use" for a Motor Hotel in the B-1, Multiple Family Residential District by the Planning Board 11-14-66, and approved by City Commission on 12-6-66.
- 1969 - Rezoned to R-3/UO, Multi-Family Residential District with University Overlay District on 7-15-69 (New Citywide Zoning Ordin.)
- 1981 - Rezoned to PUD for the pool expansion and club area. Reviewed by the Planning board on 1-12-81 and approved by City Commission on 2-17-81.
- 1981 - Final Development Plat Ramada Inn Addition, approved by the Planning Board on 8-10-81, filed 8-25-81.
- 1985 - PUD expanded to east to add parking lots. Planning Board reviewed on 6-17-85 and approved by City Commission on 7-16-85

Attachment No. 2

- 1985 - Replat Ramada Inn Addition, A Commercial PUD, approved by Planning Board on 11-4-85, filed 11-6-85.
- 1990 - Rezoning R-3/UO to PUD and expansion of PUD to add parking. Reviewed by Planning Board on 6-4-90, and approved by City Commission on 7-3-90.
- 1990 - Final Development Plan approved by Planning Board on 7-16-90.
- 1990 - Final Plat Ramada Inn, Unit Two approved by Planning Board on 8-20-90 and filed on 9-6-90.
- February 3, 1997, the Manhattan Urban Area Planning Board recommends approval of an amendment to the Ramada Inn PUD
- March 4, 1997, the City Commission approves Ord. No. 5023 amending the Ramada Inn PUD.
- January 5, 1998, the Manhattan Urban Area Planning Board recommended approval of an amendment to the Final Plan and Ord. No. 5023.
- January 20, 1998, City Commission approved first reading of an ordinance to amend the PUD.
- November 5, 2001, the Manhattan Urban Area Planning Board recommended approval of an amendment to the Final Plan and Ord. No. 4647 to add telecommunications facilities, with the four conditions listed in the staff report.
- November 20, 2001, the City Commission approves first reading of an ordinance amending the Final Plan and Ord. No. 4647 to add telecommunications facilities, with the four conditions listed in the staff report.
- December 4, 2001, City Commission approves Ordinance No. 6248 amending the Final Plan and Ord. No. 4647 to add telecommunications facilities, with the four conditions listed in the staff report.

9. CONSISTENCY WITH INTENT AND PURPOSE OF THE ZONING ORDINANCE: A PUD is intended to achieve a maximum choice of living environments. . . , a useful pattern of open space and recreation areas. . . , a development pattern that utilizes the natural topography. . . , a more efficient use of land than normally achieved by conventional development. . . , a development pattern in harmony with land use density, transportation, and community facilities. . . , provides a safe, clean, convenient and necessary commercial facility. . . , takes into account the unique conditions of the site. . . , and establishes a compatible mix of uses.

Ordinance No. 6248, condition 2 states that, “The telecommunication facilities shall be constructed and placed as proposed in the application documents.” The proposed equipment sheds on the lower roof along the north side of Laramie Street, do not conform to the condition. The amendment is necessary to allow the relocation of the screened equipment sheds on the lower roof.

Attachment No. 2

Article XII, Telecom Structures, of the Manhattan Zoning Regulations was adopted December, 2004. Antenna and equipment could be re-established on the roof of the hotel subject to Ordinance no. 6248; however, the replacement telecom structures do not meet the requirements of Section 12-116 (B), Modifications and Replacement, which requires the amendment.

All telecom structures and pre-existing structures that are damaged or destroyed may be rebuilt through administrative review and approval, provided that the replacement telecom structure is the same as the original in type, location, height and character and that the replacement telecom structure complies with the requirements of this article. If the replacement telecom structure is not the same as the original in type, location, height and character and/or does not meet the requirements of this article, the owner shall follow the appropriate procedure to rebuild the telecom structure, pursuant to Section 12-104.”

Section 12-104 (E) requires an amendment of the PUD. The modifications are subject to the requirements of Article XII, which include Section 12-114, Stealth Design Principles for Telecom Structures. Telecomm facilities, including the proposed equipment and antenna, are subject to the applicable parts of Section 12-114.

“Stealth telecom structures shall be designed to blend in with the character and environment of the area in which they are proposed to be located, and to enhance compatibility with nearby land uses by minimizing visual impacts. Stealth telecom structures shall incorporate the following design principles, as applicable to the type of telecom structure and character of the location:

- (A) Preserve the pre-existing character of the area as much as possible.*
- (B) Minimize the height, mass and proportion of telecom structures to minimize impacts on the character of the nearby area.*
- (C) Minimize the silhouette presented by new towers, stealth monopoles, antenna support structures and antenna arrays. Monopoles are favored over lattice-type towers; antennas mounted inside an antenna support structure or monopole, or mounted flush to the antenna support structure, are favored over triangular “top-hat” or other projecting external types of antenna arrays.*

Attachment No. 2

- (D) *Use colors, textures and materials that blend in with the existing environment; surfaces shall be painted, or otherwise treated, to match or complement existing background structures and surfaces, and to minimize reflection.*
- (E) *Conceal telecommunication facilities from view by placing inside a building, steeple, penthouse, clock tower, flagpole or other appropriate structure. Architectural additions or appurtenances to existing antenna support structures that are intended to conceal telecommunication facilities, shall be designed to be appropriate in mass, scale, material, texture, color and character with the existing antenna support structure.*
- (F) *Camouflage and/or disguise telecom structures to look like another type of structure or object, through methods including, but not limited to design, placement, use of materials, texture, color, year-round landscaping and screening, to blend in with the character of the surroundings, or integrate into the architectural elements and character of an existing antenna support structure to such an extent that it is indistinguishable by the casual observer from the structure on which it is located, or from the surroundings in which it is placed. Stealth monopoles designed to look like a flagpole shall utilize a flag that is appropriately sized for the height of the pole. Stealth monopoles disguised as a tree shall be of a height, character and placement that is appropriate to the location. Telecom structures mounted on roofs or similar structures shall be concealed from view by placement and setback from the edges and/or through use of architectural screening that is in character with the building or antenna support structure.*
- (G) *Locate telecom structures in areas where trees and/or buildings obscure some or all the telecom structures from view, and install new year-round landscaping and screening around the site where visible from public streets or residential areas.*
- (H) *Locate accessory equipment inside a building or in underground vaults when possible. Screen ground-level telecom structures through use of walls, fencing or year-round landscaping, or combinations thereof, which is appropriate in design, height and material to the character of the location and the structure to be screened.”*

Attachment No. 2

The proposed amendment is consistent with the intent of the PUD regulations and the commercial nature of the approved PUD. Minimal visual impact is expected based on the proposed on the information set out in the application documents.

10. RELATIVE GAIN TO THE PUBLIC HEALTH, SAFETY AND WELFARE THAT DENIAL OF THE REQUEST WOULD ACCOMPLISH, COMPARED WITH THE HARDSHIP IMPOSED UPON THE APPLICANT: There appears to be no gain to the public that denial would accomplish compared to the hardship imposed on the applicant. The site allows for increased coverage for cellular communications without the construction of a new communications tower and removes two temporary towers.

11. ADEQUACY OF PUBLIC FACILITIES AND SERVICES: Adequate public facilities and services currently serve the site.

12. OTHER APPLICABLE FACTORS: The Ramada Inn PUD and the proposed telecomm equipment and antennas are within the 500 foot environs of the KSAC Radio Towers located on the Kansas State University campus. The towers are listed on the National Register of Historic Places. The State Historic Preservation Office has determined that the proposed telecomm equipment and antennas will not have an adverse affect on the environs of the KSAC Radio Towers (*attachment*).

13. STAFF COMMENTS: City Administration recommends approval of the proposed Amendments of the Ramada Inn Commercial Planned Unit Development's Final Development Plan and Ordinance No. 6248, based on the findings in the staff report, with the following conditions of approval:

1. Telecommunications Facilities, as defined in the Manhattan Zoning Regulations, Article XII, Telecom Structures, shall be a Permitted Use.
2. The proposed Telecommunications Facilities shall be installed as proposed in the application documents.
3. Future Telecommunications Facilities shall be subject to the requirements of Article XII, Telecom Structures.
4. All applicable permits shall be obtained prior to installation of the telecommunications facilities.

ALTERNATIVES:

1. Recommend approval of the proposed Amendments of the Ramada Inn Commercial Planned Unit Development's Final Development Plan and Ordinance No. 6248, stating the basis for such recommendation.
2. Recommend denial of the proposed Amendments of the Ramada Inn Commercial Planned Unit Development's Final Development Plan and Ordinance No. 6248, stating the specific reasons for denial.
3. Table the proposed Amendment(s) to a specific date, for specifically stated reasons.

POSSIBLE MOTION:

The Manhattan Urban Area Planning Board recommends approval of the proposed Amendments of the Ramada Inn Commercial Planned Unit Development's Final Development Plan and Ordinance No. 6248, based on the findings in the Staff Report, with the four conditions of approval recommended by City Administration.

PREPARED BY: Steve Zilkie, AICP, Senior planner

DATE: September 16, 2010.

10044

**STAFF REPORT
ON AN APPLICATION TO REZONE PROPERTY**

FROM: R-1, Single-Family Residential District with AO, Airport Overlay District

TO: R, Single-Family Residential District with AO, Airport Overlay District.

APPLICANT: Jeff Hancock – SMH Consultants

ADDRESS: 4201B Anderson Avenue, Suite 2, Manhattan, KS 66503

OWNER: Angela Britt

ADDRESS: 1400 S. Scenic Drive, Manhattan, KS 66503

LOCATION: Generally located east of Scenic Drive and 400 feet south of the intersection of Fossilridge Drive and Scenic Drive.

AREA: 652,658 square feet (14.98 acres)

DATE OF PUBLIC NOTICE PUBLICATION: Thursday, August 19, 2010

DATE OF PUBLIC HEARING: PLANNING BOARD: Thursday, September 9, 2010
CITY COMMISSION: Tuesday, October 5, 2010

EXISTING USE: Agriculture

PHYSICAL AND ENVIRONMENTAL CHARACTERISTICS: The southwest portion of the site is relatively flat and used as row crop farmland. The remaining portion of the site is a wooded, natural drainage area for the Eureka Valley. The agricultural area drains to the north and east to the drainage area. The drainage area also collects stormwater runoff from the surrounding properties to the north, west and south. The site is entirely within Zone AE, 1% Annual Chance Flood Plain (commonly referred to as the 100 Year Flood Plain). No mapped Floodway is located on the site.

The entire site is within the Conical Zone of Manhattan's Regional Airport, which requires that the AO, Airport Overlay District, be added to the site. Future uses (structures and trees), which are within the limits of the Conical Zone may be required to apply for, and be granted, an Airport Compatible Use Permit prior to construction, planting or change to the structure or tree (see below under CONSISTENCY WITH INTENT AND PURPOSE OF THE ZONING ORDINANCE for further information concerning the AO District).

SURROUNDING LAND USE AND ZONING:

(1) **NORTH:** Developing single-family residential neighborhoods and Common Area and a Conservation Easement: R-1, Single-Family Residential District with AO, Airport Overlay District and R/AO District.

(2) **SOUTH:** Faith Baptist Church and Farmland; County G-1 District.

(3) **EAST:** Farmland and Rangeland; County G-1 District.

(4) **WEST:** Farmland and Rangeland; County G-1 District.

GENERAL NEIGHBORHOOD CHARACTER: The area is comprised of a developing single-family residential neighborhood to the north, a church to the south and agricultural land used for row crops and rangeland.

SUITABILITY OF SITE FOR USES UNDER CURRENT ZONING: The site is zoned, R-1/AO, Single-Family Residential District and Airport Overlay District. The majority of the site is the drainage area for the Eureka Valley and is in Zone AE, 1% Annual Chance Flood Plain. The drainage area is dedicated as Common Area and Conservation Easement on the Final Plat of Scenic Meadows, Unit Three. The elevation of the site outside of the Common Area and Conservation Easement is from 1024 feet to 1028 feet, which is nine (9) feet to five (5) feet below the Base Flood Elevation (BFE) of 1033 feet. Appropriate fill could be added to the site to raise the land to at least one (1) foot above the BFE, which is required by Article X, Flood Plain Regulations, to create developable areas for single-family homes. The amount of fill needed to create developable areas on the site may be cost prohibitive and would most likely disrupt the natural drainage channel of the Eureka Valley. Because of the physical characteristics of the site and dedicated Common Area and Conservation Easement, the site may be unsuitable for the permitted and conditional uses under the current R/AO Zoning District.

The southwest area of the site is currently being used as row crop agricultural land. The R-1 District does not permit agricultural uses. Section 8-404 states:

Uses. All legally nonconforming uses of land, not involving a structure or involving only structures which are accessory to such use of land, shall be eliminated or made to conform with the regulations of the zoning district in which located within two years from the date such use became legally nonconforming.

To bring the use of the property into compliance with the Zoning Regulations, the applicant is proposing to rezone the site from R-1/AO Districts to R/AO Districts. The R District permits agricultural uses, such as row-crop farmland.

COMPATIBILITY OF PROPOSED DISTRICT WITH NEARBY PROPERTIES AND EXTENT TO WHICH IT MAY HAVE DETRIMENTAL AFFECTS: The adjacent neighbors to the north are within a developing single-family residential neighborhood. Immediately to the north is Tract B, Scenic Meadows Addition, Unit Three, which has a majority of its area dedicated as a Common Area and Conservation Easement. Beyond Tract B are the residential homes in the Scenic Meadows Addition. To the south is a church.

There is the potential for conflicts between the church and the residential uses and the agricultural use because of noise, dust and smells from the row crop use. However, the agricultural use has been present on the site before the recent development of the low-density single-family neighborhood (Scenic Meadows Addition was annexed and rezoned in October, 2006 and has had subsequent plats of the residential areas since that time). The surrounding properties to the south, east and west are agricultural uses. The agricultural use will be separated from the single-family homes to the north by Tract B, which is approximately 500 feet wide at its widest point. The proposed rezoning would bring the agricultural use into compliance with the City's Zoning Regulations. Because the existing agricultural use has been present before the residential use in the area was developed and the current and future residents of the neighborhood to the north are separated by Tract B and should be aware of the use of the site, the proposed rezoning should be compatible with the nearby properties.

The property owner's consultant, Jeff Hancock with SMH Consultants, held a neighborhood meeting on May 4th, 2010 at Britt's Produce Store. No one attended the meeting other than the consultant and the applicant.

CONFORMANCE WITH COMPREHENSIVE PLAN:

The site is shown on the Future Land Use map in the Southwest Planning Area as a combination of Agriculture and Environmental Sensitive Areas. The entire Scenic Meadows Addition is shown on the Future Land Use map in the Southwest Planning Area as a combination of Agriculture, Environmental Sensitive Areas and Residential Low/Medium Density (RLM). The RLM portion is a small area located in northeast portion of the site on an upper ridge. Policy statements are in Chapter 4 of the Comprehensive Plan.

Agricultural Policies

Agricultural areas are primarily areas for farming, ranching, and other agriculturally related uses and very low density rural residential. The Agricultural category can be characterized in several ways, including: areas that are not anticipated to be developed within the 20-year planning horizon of this plan; areas which are encouraged to continue to be used for agriculture within the context of both market demand and the desires of individual property owners; and, residences, which are typically limited to those for owners/operators of the agricultural enterprise.

Environmental Values and Constraints Policies

Environmentally sensitive constraints on the site consist 100 and 500 Year Flood Plain, the

Conical zone of the Airport, wetlands, and secondary streams. As noted on the Environmental Values and Constraints Map, the wetland areas, both within the site and in other areas in the community, were identified by the Northern Flinthills Audubon Society as natural areas of highest priority for preservation. A portion of the site is identified as Prime Agricultural Land. The wetlands, secondary stream corridors, and flood plains should incorporate sensitive design practices to minimize physical and environmental impacts, reduce excessive grading of natural topography and excessive removal of natural vegetation. Policy statements are in Chapter 5 of the Comprehensive Plan include:

NRE 1: Corridors, Buffers, and Linkages and Preserved Open Space

The City and County should use a variety of methods (both public and private) to facilitate the creation of a continuous, permanent, system of open space corridors using natural features such as preserved open space areas, drainages, streams, and rivers to the extent possible. Corridors should be identified during the subdivision or master planning process and should be used to provide linkages within and between non-contiguous parks, environmentally sensitive and preserved open space areas, as well as neighborhoods and other development areas. Buffers can also be used to provide a transition between different intensities of uses. The current width and shape and other features of a naturally occurring corridor (such as a drainage way) should be preserved, in order to maintain its environmental integrity and avoid creating an “engineered” appearance.

NRE 2: Parks and Recreation

The City and County should ensure that park and recreation facilities provide an adequate range of recreational opportunities. Facilities shall be designed in a manner that responds to the needs of the intended users. More specific policies and design guidelines are provided in the previously developed Comprehensive Parks Master Plan, Linear Park Master Plan - Phase II, Strategic Park Plan, Bicycle Master Plan, and the Fairmont Park Master Plan

NRE 3: Trails Network

The City and County shall use a variety of methods to develop a system of open space that is connected, continuous, and permanent. The Linear Trail, which currently follows parts of Wildcat Creek, and the Big Blue and Kansas Rivers, represents the beginnings of a network of trails and open space that will link various areas of the City. Tributary drainage channels and other potential pedestrian corridors should also be incorporated as part of the overall network as they become integrated into residential areas.

NRE 4: Environmentally Sensitive Areas: Wildlife Habitat and Corridors, Wetlands, Riparian Areas and Prairie Ecosystems

The Urban Area is home to a variety of environmentally sensitive areas, including: Wildcat Creek, the Big Blue and Kansas Rivers, numerous secondary stream corridors, drainage areas, and wetlands, as well as prairie ecosystems. In addition to their scenic quality, these areas provide other benefits, such as water quality enhancement and flood control, potential eco-tourism, and also serve as important wildlife habitat. The City and County shall work to ensure that development impacts upon these areas are minimized.

NRE 5: Environmentally Sensitive Site Design

The City and County shall ensure that environmentally sensitive site design practices are used in new development. Sensitive site design practices can minimize unnecessary physical and visual impacts upon the surrounding landscape, caused by excessive removal of existing vegetation or severe roadway cuts, and excessive grading of natural topography.

NRE 6: Natural Hazards

Development shall be prohibited in areas where natural hazards have been identified which have the potential to endanger life, resources, and property. Within the Manhattan Urban Area, these hazards include steep slopes (20% or greater slope), floodways, and other special flood hazard areas.

Eureka Valley Special Planning Area Policies

The site is located at the northeast edge of the Eureka Valley Special Planning Area as described in Chapter 13 of the Comprehensive Plan. The Eureka Valley is intended to be an area for service industrial, office and research park, and limited heavy industrial uses in targeted areas. Commercial uses are encouraged within employment areas to serve employees. Future development should be compatible and consistent with the goals and policies of the Airport Master Plan. Wetlands should be protected.

The proposed rezoning conforms to the Comprehensive Plan as previously determined with the Scenic Meadows Addition subdivision in 2006. The area was annexed, zoned and platted in response to the market demand for a variety of residential uses. The proposed rezoning is to a more restrictive residential district in terms of minimum lot area. If the area was to be developed for single-family homes, the site would potentially have less net residential density than would be allowed in the current R-1 District. The application documents state that the proposed use is to be for agriculture.

ZONING HISTORY AND LENGTH OF TIME VACANT AS ZONED: The site has remained vacant to date, with a portion of the site used for farmland for an undetermined amount of time.

- February 6, 2006 The Manhattan Urban Area Planning Board conducted a Public Hearing to consider the amendment, which would have designated the area for Residential Low/Medium Density, Neighborhood Commercial, Environmentally Sensitive Area, Parks and Recreation, and Preserved Open Space. The Planning Board conducted a public hearing and declined to amend the Comprehensive Plan on a vote of 4-1.
- May 1, 2006 The applicant submitted an application through the Riley County Planning and Development Department to consider the Preliminary Plat of the Scenic Meadows Subdivision and to rezone the 117-acre tract of land from “G-1” (General Agricultural) to “R-PUD” (Residential Planned Unit Development). The Manhattan Urban Area Planning Board tabled the public hearings to the Planning Board’s May 15th meeting.
- May 2, 2006 The applicant submitted a request to the City of Manhattan for water and sanitary sewer services for the Scenic Meadows Addition. The City Commission, on a vote of 5-0, moved to provide water and sanitary sewer services contingent on approval of applications for annexation, rezoning, and platting.
- May 15, 2006 At the request of the applicant, the Manhattan Urban Area Planning Board tabled the rezoning and platting public hearings submitted to Riley County for a maximum of one year.
- June 5, 2006 Applicant discussed possible parkland with Parks & Recreation Advisory Board. No action taken by Board.
- June 19, 2006 Manhattan Urban Area Planning Board on votes of 5-2 recommends approval of annexation and rezoning of the Scenic Meadows Addition, from G-1, General Agricultural District, to R, Single-Family Residential District with AO, Airport Overlay District, and to R-1, Single-Family Residential District with AO, Airport Overlay District.

Attachment No. 3

- June 19, 2006 Manhattan Urban Area Planning Board conducts a public hearing to consider the Preliminary Plat of the Scenic Meadows Addition and approves Preliminary Plat with conditions, on a vote of 7-0.
- July 11, 2006 City Commission, on a vote of 5-0, approves Resolution No. 071106-A requesting that the Board of Riley County Commissioners make positive findings regarding the island annexation of the proposed Scenic Meadows Addition.
- July 20, 2006 Board of Riley County Commissioners made positive findings regarding the island annexation of the proposed Scenic Meadows Addition.
- August 21, 2006 Manhattan Urban Area Planning Board approves a modified Preliminary Plat of the Scenic Meadows Addition, on a vote of 4-0, with 7 conditions of approval.
- September 19, 2006 City Commission approves first reading of annexation and rezoning to R, Single-Family Residential District with AO, Airport Overlay District, and to R-1, Single-Family Residential District with AO, Airport Overlay District of the Scenic Meadows Addition.
- October 3, 2006 City Commission approves Ordinance Nos. 6576 and 6577 annexing and rezoning the Scenic Meadows Addition to R, Single-Family Residential District with AO, Airport Overlay District, and to R-1, Single-Family Residential District with AO, Airport Overlay District.
- Nov. 6, 2006 Manhattan Urban Area Planning Board approves the Final Plat of Scenic Meadows Addition, based on conformance with the Manhattan Urban Area Subdivision Regulations.
- Nov. 21, 2006 City Commission accepts the easements and rights-of-way, as shown on the Final Plat of Scenic Meadows Addition.
- July 16, 2007 Manhattan Urban Area Planning Board approves the Final Plat of Scenic Meadows Addition, Unit Two, based on conformance with the Manhattan Urban Area Subdivision Regulations.
- August 14, 2007 City Commission accepts the easements and rights-of-way, as shown on the Final Plat of Scenic Meadows Addition, Unit Two.

Attachment No. 3

March 15, 2010 Manhattan Urban Area Planning Board approves Variation of Subdivision Layout Standards for cul-de-sac length; and approves the Preliminary and Final Plat of Scenic Meadows Addition, Unit Three, with two conditions of approval, based on conformance with the Manhattan Urban Area Subdivision Regulations.

May 4, 2010 City Commission accepts the easements and rights-of-way, as shown on the Final Plat of Scenic Meadows Addition, Unit Three.

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, Single-Family Residential District, is designed to provide a single-family dwelling zone at a density no greater than one dwelling unit per 10,000 square feet. Minimum lot area is 10,000 square feet for a single-family dwelling. The sites are adequate in area to conform to the requirements of the Zoning Regulations.

The land located in the 1% Annual Chance Flood Plain are subject to the requirements of the Flood Plain Regulations of the Manhattan Zoning Regulations, which require any structures to be elevated on fill with the lowest enclosed floor, including a basement, to be at least one foot above the Base Flood Elevation (BFE).

The AO District “is intended to promote the use and development of land in a manner that is compatible with the continued operation and utility of the Manhattan Municipal Airport so as to protect the public investment in, and benefit provided by the facility to the region. The district also protects the public health, safety, convenience, and general welfare of citizens who utilize the facility or live and work in the vicinity by preventing the creation or establishment of obstructions or incompatible land uses that are hazardous to the airport's operation or the public welfare.”

The site is within the Conical Zone, which in general terms, is an airspace that extends outward and upward in relationship to the Airport and is an approach zone height limitation on the underlying land. Future uses (structures and trees, existing and proposed) in the AO District may be required to obtain an Airport Compatible Use Permit, unless circumstances indicate that the structure or tree has less than 75 vertical feet of height above the ground and does not extend above the height limits prescribed for the Conical Zone.

RELATIVE GAIN TO THE PUBLIC HEALTH, SAFETY AND WELFARE THAT DENIAL OF THE REQUEST WOULD ACCOMPLISH, COMPARED WITH THE HARDSHIP IMPOSED UPON THE APPLICANT: There appears to be no gain to the public that denial would accomplish. The AO District requires that future uses be reviewed in order to protect airspace. The proposed rezoning is to accommodate the current agricultural use of the site.

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

OTHER APPLICABLE FACTORS: None

STAFF COMMENTS: City Administration recommends approval of the proposed rezoning of Tract A, Scenic Addition, Unit Three from R-1/AO, Single-Family Residential District and Airport Overlay District to R/AO, Single-Family Residential District and Airport Overlay District.

ALTERNATIVES:

1. Recommend approval of the proposed rezoning Tract A, Scenic Meadows Addition, Unit Three, Generally located east of Scenic Drive and 400 feet south of the intersection of Fossilridge Drive and Scenic Drive from R-1/AO, Single-Family Residential District and Airport Overlay District to R/AO, Single-Family Residential District and Airport Overlay 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 Tract A, Scenic Meadows Addition, Unit Three, from R-1/AO, Single-Family Residential District and Airport Overlay District to R/AO, Single-Family Residential District and Airport Overlay District based on the findings in the Staff Report.

PREPARED BY: Chad Bunger, AICP, CFM, Planner II

DATE: August 27, 2010