

MINUTES
CITY COMMISSION MEETING
TUESDAY, JULY 6, 2004
7:00 P.M.

The Regular Meeting of the City Commission was held at 7:00 p.m. in the City Commission Room. Mayor Brad Everett and Commissioners Ed Klimek, Bruce Snead, Mark Hatesohl, and Mark Taussig were present. Also present were the City Manager Ron R. Fehr, Assistant City Manager Diane Stoddard, Assistant to the City Manager Jason Hilgers, City Attorney Bill Frost, City Clerk Gary S. Fees, 11 staff, and approximately 135 interested citizens.

PLEDGE OF ALLEGIANCE

Mayor Everett led the Commission in the Pledge of Allegiance.

PUBLIC COMMENTS

Reverend David Grimm, 481 Zeandale Road; Gene Klingler, 1516 Wyndham Heights; Judy Davis, Executive Director, Crisis Center; Robert Smith, 7202 Hi View Drive, ATA, Board of Directors; Karen Rappoport, 320 South Delaware Avenue; Gayle Bennett, 3104 Harrahey Ridge; Helen Roser, P.O. Box 1814; Atina Hanna, 3512 Stagecoach Circle; Bill Kennedy, Riley County Attorney; Susan Koelliker, 3500 Mintons Landing; Jim Sherow, 529 Pierre Street; Nancy Twiss, 2327 Bailey Drive; Abigail Conrad, 610 Fairchild Terrace; Gary Conrad, 610 Fairchild Terrace; Christopher Renner, 508 Valley Drive; Karla Hagemeister, Riley County Attorney's Office; Marianne Korten, 814 Osage Street; and Steven Malthry, 325 Fordham Road, urged the Commission to continue to support the social services and was concerned with the talk of eliminating the future funding of the Social Services Advisory Board.

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

COMMISSIONER COMMENTS

Commissioner Snead thanked those that spoke during public comments portion and said that their points were well made and will be taken dearly to heart.

Commissioner Hatesohl said there are needs for social services and understands the demands and accountabilities of the agencies receiving funding through the City.

COMMISSIONER COMMENTS (CONTINUED)

Commissioner Taussig said the turnout reaffirms what a great community Manhattan is and thanked those who expressed their feelings.

Commissioner Klimek said this will be worked out to the benefit of everyone.

Mayor Everett thanked those that shared their compassion and their hearts and encouraged additional private support of social services.

Helen Roser, P.O. Box 1814, provided additional information regarding social services.

CONSENT AGENDA

(* denotes those items discussed)

MINUTES

The Commission approved the minutes of the Regular City Commission Meeting held Tuesday, June 15, 2004.

CLAIMS REGISTER NO. 2508

The Commission approved Claims Register No. 2508 authorizing and approving the payment of claims from June 9, 2004, to June 29, 2004, in the amount of \$3,005,674.44.

BOARD APPOINTMENTS

The Commission approved appointments by Mayor Everett to various boards and committees of the City.

Historic Resources Board

Appointment of Ray B. Weisenburger, 1927 Vermont Street, to a three-year Landscape Architect's term. Mr. Weisenburger's term begins July 6, 2004, and will expire April 30, 2007.

Social Services Advisory Board

Re-appointment of Barbara Withee, 748 Elling Drive, to a three-year term. Ms. Withee's term begins July 6, 2004, and will expire June 30, 2007.

LICENSE – CEREAL MALT BEVERAGE

The Commission approved the Cereal Malt Beverage application for Wildcat Amoco, 1701 Anderson Avenue.

CONSENT AGENDA (CONTINUED)

FINAL PLAT – ROETS ADDITION, UNIT 2

The Commission accepted the easements and rights-of-way, as shown on the Final Plat of Roets Addition, Unit 2, which is generally located south of Mission Avenue, between Brockman Street and Butterfield Road, based on conformance with the Manhattan Urban Area Subdivision Regulations.

FINAL PLAT – WESTERN HILLS ADDITION, UNIT 12

The Commission accepted the easements and rights-of-way, as shown on the Final Plat of Western Hills Addition, Unit 12, which is generally located at the northern end of Everett Drive and west of the intersection of Everett Drive and Everett Place, based on conformance with the Manhattan Urban Area Subdivision Regulations.

FINAL PLAT – ELMHURST ADDITION, UNIT 2

The Commission accepted the easements and rights-of-way, as shown on the Final Plat of Elmhurst Addition, Unit 2, which is generally located north of the intersection of Lee Street and Anderson Avenue, along the east side of Lee Street; consisting of 800 and 808 Lee Street, based on conformance with the Manhattan Urban Area Subdivision Regulations.

FINAL PLAT – OAK HOLLOW, UNIT 9

The Commission accepted the easements and rights-of-way, as shown on the Final Plat of Oak Hollow, Unit 9, based on conformance with the Manhattan Urban Area Subdivision Regulations.

FINAL PLAT – STONEGATE ESTATES, UNIT 6

The Commission accepted the easements and rights-of-way, as shown on the Final Plat of Stonegate Estates, Unit 6, which is generally located south of the intersection of Hillview Drive and St. Andrew Circle, based on conformance with the Manhattan Urban Area Subdivision Regulations.

ORDINANCE NO. 6408 – 2003 INTERNATIONAL FIRE CODE

The Commission approved Ordinance No. 6408 adopting the *International Fire Code*, 2003 edition, making certain changes thereto, and adding various sections relating to the *International Fire Code* to Chapter 13, Fire Prevention Code, of the *Code of Ordinances*, City of Manhattan, Kansas.

CONSENT AGENDA (CONTINUED)

ORDINANCE NO. 6409 – 2003 INTERNATIONAL BUILDING CODE

The Commission approved Ordinance No. 6409 adopting the *International Building Code*, 2003 edition, making certain changes thereto, and amending Chapter 8, Article III of the *Code of Ordinances*, City of Manhattan, Kansas.

ORDINANCE NO. 6410 – 2003 INTERNATIONAL MECHANICAL CODE

The Commission approved Ordinance No. 6410 adopting the *International Mechanical Code*, 2003 edition, making certain changes thereto, and amending Chapter 8, Article VII of the *Code of Ordinances*, City of Manhattan, Kansas.

ORDINANCE NO. 6411 – 2003 INTERNATIONAL PLUMBING CODE

The Commission approved Ordinance No. 6411 adopting the *International Plumbing Code*, 2003 edition, making certain changes thereto, and amending Chapter 8, article V of the *Code of Ordinances*, City of Manhattan, Kansas.

ORDINANCE NO. 6412 – 2003 INTERNATIONAL FUEL GAS CODE

The Commission approved Ordinance No. 6412 adopting the *International Fuel Gas Code*, 2003 edition, making certain changes thereto, and amending Chapter 8, Article VI of the *Code of Ordinances*, City of Manhattan, Kansas.

ORDINANCE NO. 6413 – 2003 INTERNATIONAL PROPERTY MAINTENANCE CODE

The Commission approved Ordinance No. 6413 adopting the *International Property Maintenance Code*, 2003 edition, making certain changes thereto, and amending Chapter 8, Article VIII of the *Code of Ordinances*, City of Manhattan, Kansas.

ORDINANCE NO. 6414 – 2003 INTERNATIONAL RESIDENTIAL CODE

The Commission approved Ordinance No. 6414 adopting the *International Residential Code*, 2003 edition, making certain changes thereto, and amending Chapter 8, Article X of the *Code of Ordinances*, City of Manhattan, Kansas.

ORDINANCE NO. 6415 – 2003 INTERNATIONAL EXISTING BUILDING CODE

The Commission approved Ordinance No. 6415 adopting the *International Existing Buildings Code*, 2003 edition, amending Chapter 8, Article XII of the *Code of Ordinances*, City of Manhattan, Kansas

CONSENT AGENDA (CONTINUED)

ORDINANCE NO. 6416 – 2002 NATIONAL ELECTRICAL CODE

The Commission approved Ordinance No. 6416 adopting the *National Electrical Code*, 2002 edition, making certain changes thereto, and amending Chapter 8, Article IV of the *Code of Ordinances*, City of Manhattan, Kansas.

ORDINANCE NO. 6417 – AMEND – GENERAL CONTRACTORS LICENSE

The Commission approved Ordinance No. 6417 amending Chapter 8, Article I of the *Code of Ordinances*, City of Manhattan, Kansas, regarding General Contractors licensing requirements.

PUBLIC HEARING – SPECIAL ASSESSMENTS

Mayor Everett opened the public comments.

Hearing no comments, Mayor Everett closed the public comments.

FIRST READING – SPECIAL ASSESSMENTS

The Commission approved first reading of an ordinance levying special assessments against the benefiting property in the following six (6) public improvement districts: *Pheasant Hill Addition – Sanitary Sewer, Water; Stone Valley Addition, Phase I – Sanitary Sewer, Water; Tatarrax Hills Subdivision – Sanitary Sewer/Water; The Browning Project – Storm Water.*

RESOLUTION NO. 070604-A – OAK HOLLOW ADDITION, UNIT 9 – STREET IMPROVEMENTS (ST0404)

The Commission found the petition sufficient and approved Resolution No. 070604-A making findings and authorizing construction for Oak Hollow Addition, Unit 9, Street Improvements.

RESOLUTION NO. 070604-B – OAK HOLLOW ADDITION, UNIT 9 – SANITARY SEWER IMPROVEMENTS (SS0404)

The Commission found the petition sufficient and approved Resolution No. 070604-B making findings and authorizing construction for Oak Hollow Addition, Unit 9, Sanitary Sewer Improvements.

RESOLUTION NO. 070604-C – OAK HOLLOW ADDITION, UNIT 9 – WATER IMPROVEMENTS (WA0405)

The Commission found the petition sufficient and approved Resolution No. 070604-C making findings and authorizing construction for Oak Hollow Addition, Unit 9, Water Improvements.

CONSENT AGENDA (CONTINUED)

RESOLUTION NO. 070604-D – OAK HOLLOW ADDITION, UNIT 9 – STORM DRAINAGE IMPROVEMENTS (SM0403)

The Commission found the petition sufficient and approved Resolution No. 070604-D making findings and authorizing construction for Oak Hollow Addition, Unit 9, Storm Drainage Improvements.

AGREEMENT – ENGINEERING SERVICES – OAK HOLLOW ADDITION, UNIT 9

The Commission authorized the Mayor and City Clerk to execute an agreement with Schwab-Eaton, P.A. Manhattan, Kansas, to perform engineering services for Oak Hollow Addition, Unit 9.

AWARD CONTRACT - BROOKFIELD ADDITION, UNIT 3 – SANITARY SEWER (SS0405), WATER (WA0407), AND STREET (ST0405) IMPROVEMENTS

The Commission accepted the Engineer's Estimate in the amount of \$654,058.80 and awarded a construction contract in the amount of \$601,173.40 to Larson Construction Inc., of Manhattan, Kansas.

AWARD CONTRACT – HACKBERRY ADDITION – SANITARY SEWER (SS0403) AND WATER (WA0404) IMPROVEMENTS

The Commission accepted the Engineer's Estimate in the amount of \$153,000.00 and awarded a construction contract in the amount of \$138,902.25 to Walters Morgan Construction Inc., of Manhattan, Kansas.

AWARD CONTRACT – DENISON AVENUE SIDEWALK CONSTRUCTION (SW0301)

The Commission accepted the Engineer's Estimate in the amount of \$70,084.25, rejected all bids; and awarded a construction contract in the amount of \$70,084.25 to the low bidder, Larson Construction Company, Inc., of Manhattan, Kansas.

PURCHASE – RESCUE EQUIPMENT – FIRE DEPARTMENT

The Commission accepted the low price quote and authorized Fire Department Administration to purchase the Paratech 16 Strut - Rescue Strut System from Emergency Fire Equipment Company, of Mayfield, Kansas for \$13,698.90 plus approximately \$200.00 for shipping.

CONSENT AGENDA (CONTINUED)

OUTSIDE CITY SEWER AGREEMENT – RILEY COUNTY SHOP

The Commission approved and authorized the Mayor and City Clerk to execute the agreement with Riley County to connect the Riley County Shop complex to the City of Manhattan wastewater collection system.

* **TEMPORARY CONSTRUCTION EASEMENT – TUTTLE CREEK DAM FAILURE WARNING SYSTEM**

Brian McNulty, Operations Manager, Tuttle Creek Lake, answered questions from the Commission.

The Commission authorized the Mayor to execute a temporary construction easement with the United States of America for the purpose of allowing the U.S. Corps of Engineers to install a temporary Tuttle Creek Dam Failure Warning System on City properties

After discussion, Commissioner Snead moved to approve the consent agenda. Commissioner Hatesohl seconded the motion. On a roll call vote, motion carried 5-0, with the exception of Item B, Claims Register, Taussig Lawn Care, which carried 4-0 with Commissioner Taussig not participating on the item.

GENERAL AGENDA

FIRST READING – REZONE - PROPOSED PEBBLEBROOK ADDITION, UNIT 3

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

Mike Hill, developer and owner, provided additional information on the item and answered questions from the Commission.

After discussion, Commissioner Taussig moved to approve first reading of an ordinance rezoning Pebblebrook Addition, Unit 3, located southwest of the intersection of Cumberland Road and Pebblebrook Circle, west of Anneberg Park, and north of Wildcat Creek, from R-3, Multiple-Family Residential District, to PUD, Residential Planned Unit Development District, based on the findings in the Staff Report, with the four (4) conditions recommended by the Planning Board. (*See Attachment No. 1*) Commissioner Hatesohl seconded the motion. On a roll call vote, motion carried 5-0.

GENERAL AGENDA (CONTINUED)

FIRST READING – REZONE - PART OF LOT 1 IN THE LL&G ADDITION

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

After discussion, Commissioner Hatesohl moved to approve first reading of an ordinance rezoning part of Lot 1 in the LL&G Addition, located generally west of the Sirloin Stockade restaurant, from PUD, Commercial Planned Unit Development District, to C-5, Highway Service Commercial District, based on the findings in the Staff Report. (*See Attachment No. 2*) Commissioner Snead seconded the motion. On a roll call vote, motion carried 5-0.

SUPPLEMENTAL AGREEMENT – HWS CONSULTING GROUP - KIMBALL AVENUE CORRIDOR PROJECT (ST0010)

Jeff Hancock, City Engineer, presented the item and informed the Commission that Jerry Haug, Construction Manager, Kansas Department of Transportation (KDOT), and Jack Messer, HWS Consulting Group, were present to answer additional questions.

Chuck Williams, Director of Public Works; Ron Fehr, City Manager; Jeff Hancock, City Engineer; Jack Messer, HWS Consulting Group; and Jerry Haug, KDOT, answered questions from the Commission.

After discussion, Commissioner Snead authorized the Mayor to execute a supplemental agreement on behalf of the City with HWS Consulting Group, Inc., of Manhattan, Kansas, modifying the contract amount for construction engineering services from \$326,868.93 to \$432,908.31. Commissioner Hatesohl seconded the motion.

Ron Fehr, City Manager, and Jack Messer, HWS Consulting, answered questions from the Commission.

After additional discussion, Commissioner Klimek made a friendly amendment to include in the motion, *“in addition, HWS Consulting will commit to analyzing the curb design features and possible flaws; and, will also analyze drainage of the roadway on the downhill side of Kimball Avenue, as identified.”*

The friendly amendment was accepted.

Jeff Hancock, City Engineer; Bernie Hayen, Director of Finance; and Ron Fehr, City Manager, answered questions from the Commission.

On a roll call vote, motion carried 4-1, with Commissioner Taussig voting against the motion.

GENERAL AGENDA (CONTINUED)

FIRST READINGS – AMEND POSTED SPEED LIMIT - ANDERSON AVENUE AND KIMBALL AVENUE

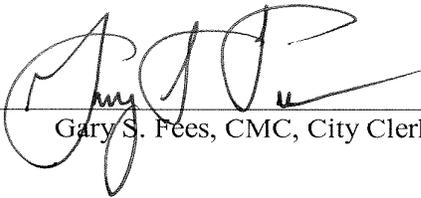
Jeff Hancock, City Engineer, presented the item and answered questions from the Commission.

Chuck Williams, Director of Public Works, provided additional information on the item and answered questions from the Commission.

After discussion, Commissioner Taussig moved to approve first readings of ordinances modifying the posted speed limits along Anderson Avenue, between the western City limits and Hudson Avenue; and Kimball Avenue, between Anderson Avenue and Candlewood Drive, from 30 mph to 40 mph. Mayor Everett seconded the motion. On a roll call vote, motion carried 4-1, with Commissioner Klimek voting against the motion.

ADJOURNMENT

At 9:50 p.m. the Commission adjourned.



Gary S. Fees, CMC, City Clerk

STAFF REPORT

APPLICATION TO REZONE PROPERTY TO PLANNED UNIT DEVELOPMENT DISTRICT

BACKGROUND

FROM: R-3, Multiple-Family Residential District

TO: Residential Planned Unit Development District

OWNER/APPLICANT: Michael Hill - Triple H Construction

ADDRESS: 3314 Kennsington Court, Manhattan KS 66503

DATE OF PUBLIC NOTICE PUBLICATION: Monday, May 17, 2004

DATE OF PUBLIC HEARING: PLANNING BOARD: Monday, June 7, 2004
CITY COMMISSION: Tuesday, July 6, 2004

LOCATION: southwest of the intersection of Cumberland Road and Pebblebrook Circle, west of Anneberg Park, and north of Wildcat Creek.

AREA: approximately 3.5-acres.

PROPOSED USES: Three, 24-dwelling unit apartment buildings (a total of 72, 2-bedroom, dwelling units), a clubhouse/leasing office, pool, off-street parking, and landscaping.

The Planned Unit Development (PUD) is an extension of the Pebblebrook Apartment and Townhomes complex. It will consist of proposed Lots 14 and 15, which are currently Final Platted as Lot 1A, Pebblebrook Addition, Unit Two, and proposed Lots 16 and 17, Final Platted as Lots 4A and 5A, Pebblebrook Addition, Unit Two. The PUD is necessary due to proposed Lots 14 and 15 not having direct access to a public street, which requires access to the lots by Travel Easement. Travel Easements can only be used with a PUD. Proposed Lots 16 and 17 can be accessed from Pebblebrook Circle.

Attachment No. 1

PROPOSED BUILDINGS AND STRUCTURES: The 3-story, 36-foot, apartment buildings will be constructed with the same appearance as existing, and under construction, apartment buildings in the adjacent complex: brick veneer, hardboard siding, and asphalt shingled roofs. The clubhouse/lease office will be 26-feet in height and constructed with the same materials as the apartment buildings. A small pool will be adjacent to the clubhouse. Dumpsters will be screened by a minimum 6-foot wooden enclosure, with wooden gate. Net density is 24.3 dwelling units per net acre. The property will be owned and managed by the owner/applicant.

PROPOSED LOT COVERAGE

<u>Use</u>	<u>Acres (ac)/Square Feet (sf)</u>	<u>Percentage (%)</u>
Building	.7 ac/ 30,492 sf	20.26%
Clubhouse	.05 ac/ 2,178 sf	1.45%
Drives/parking	1.39/ 60,548 sf	39.83%
Sidewalks	0.06 ac/ 2,614 sf	1.60%
Green Space	1.29/ 53,143 sf	36.90 % (37%)

PROPOSED SIGNS

<u>Type</u>	<u>Dimensions</u>	<u>Lighting</u>
<u>None are proposed</u>		

The existing ground lit Pebblebrook Apartment and Townhomes ground sign at the entrance to the complex will also serve the PUD. Exempt signs, such a political, address numeral and other exempt signs are provided for as a part of the conditions of approval.

PROPOSED LIGHTING: Light poles and building fixtures are the same as those in existing parking areas and on existing apartment buildings and will be downcast and shielded

REVIEW CRITERIA FOR PLANNED UNIT DEVELOPMENTS

- 1. LANDSCAPING:** landscaping is functional for the site and is an extension of the existing landscaping plan from the adjoining apartment complex.
- 2. SCREENING:** Dumpsters will be screened as described above. No other screening is required.

Attachment No. 1

3. DRAINAGE: A Drainage Analysis (*attached*) was done with the Preliminary Plat of the entire Pebblebrook Addition in 2001. The site was included as a part of that analysis. The analysis and drainage plan were found to conform to the policies of the Stormwater Management Master Plan. The site drains to Wildcat Creek.

4. CIRCULATION: Circulation is from Pebblebrook Circle, a public street, with internal access to Lots 14 and 15, which do not abut the public street, from Pebblebrook Place, a Travel Easement. The proposed internal drives connect to drives within the adjoining apartment complex system. Sidewalk is provided along Pebblebrook Circle and in front of entrances to the buildings on Lots 14 and 15.

A Traffic Report (*attached*) was considered with the Preliminary Plat of the Pebblebrook Addition in 2001. The future development on the site was included as a part of the analysis and found to conform to policies of the Manhattan Urban Area Transportation Plan. The report concluded that the apartment development would have minimal impact on the existing surrounding street network.

A total of 170-off-street parking spaces are proposed, 166-spaces for residents and four (4)-spaces for guests/pool. Two point three (2.3) off-street parking spaces are proposed for each 2-bedroom unit. Based on the number of 2-bedroom units (72), 3-parking spaces are required by the Zoning Regulations, or a total of 216 parking spaces (72-dwellings x 3 = 216-parking spaces).

On February 13, 2002, the Board of Zoning Appeals granted an Exception to allow a reduction of the minimum required number of off-street parking spaces for multiple-family dwellings for the R-3 District portion of the Pebblebrook Apartment complex. (*Note: the apartment complex was referred to as Brookwood Apartments in 2002, and the Variance indicated in the findings was for screening on the eastern side of the complex, adjacent to Anneberg Park*). The BZA reduced the minimum required 3-parking spaces per unit to 2.3-parking spaces per unit, as proposed by the applicant in 2002. The Findings of Fact upon which the BZA granted the reduction are attached for reference. The proposed 2.3-parking spaces per 2-bedroom unit equals the ratio granted by the BZA for the R-3 District part of the Pebblebrook Apartment complex. The proposed number of parking spaces should be adequate for similar reasons as set out in the referenced Findings of Fact.

5. OPEN SPACE AND COMMON AREA: Approximately 37% of the site is green open space, with the pool/clubhouse serving the PUD and adjacent complex.

Attachment No. 1

6. CHARACTER OF THE NEIGHBORHOOD: The neighborhood is generally characterized by an apartment complex that is under construction, an undeveloped business park and low density residential development to the north of Anderson Avenue, flood plain and open farmland are to the south and west, a medical and professional office complex to the northwest, and a community park to the east. The site is generally at the western edge of the City limits.

MATTERS TO BE CONSIDERED WHEN CHANGING ZONING DISTRICTS

1. EXISTING USE: Undeveloped future site for apartment complex expansion.

2. PHYSICAL AND ENVIRONMENTAL CHARACTERISTICS: The site is vacant and has been graded and filled for development. The northwest part of the site is in the buildable portion of the 100 Year Flood Plain. The site drains to Wildcat Creek, which is to the west/southwest.

3. SURROUNDING LAND USE AND ZONING:

(a.) NORTH: Pebblebrook Apartment complex, Anderson Avenue and Cumberland Road, undeveloped business park district, and single family homes; R-3 District, I-5, Business Park District, and R, Single-Family Residential District.

(b.) SOUTH: Wildcat Creek, farmland and flood plain; County G-1, General Agricultural District.

(c.) EAST: Pebblebrook Apartments and Anneberg Park; R-3 District and RS, Single-Family Residential Suburban District.

(d.) WEST: Lot AA, Common Area/Drainage Easement, Pebblebrook Addition, Unit Two, vacant farmhouse and farmland, flood plain, existing medical offices and developing medical and professional office area, and Scenic Drive; R-3 District, G-1 District, C-2, Neighborhood Shopping District, and PUD.

4. CHARACTER OF THE NEIGHBORHOOD: See above.

5. SUITABILITY OF SITE FOR USES UNDER CURRENT ZONING: The site will consist of part of existing Lot 1A, Pebblebrook Addition, Unit Two, a 2.81 acre tract of land; and Lot 4A and 5A, Unit Two, both of which are vacant. The PUD portion of the site was included as a part of the approved Preliminary Plat. It was noted in the Preliminary

Attachment No. 1

Plat Staff Memorandum that an undesignated part of the Plat would be a future PUD for multiple-family residential buildings. Due to the configuration of the site, which is constrained by the 100-Year Flood Plain, proposed Lots 14 and 15 could not be platted, since direct access to public streets, could not be provided, even though sufficient land area is available for apartment building construction. The site is suitable for the proposed uses, if access by Travel Easement is used for interior Lots 14 and 15.

6. COMPATIBILITY OF PROPOSED DISTRICT WITH NEARBY PROPERTIES AND EXTENT TO WHICH IT MAY HAVE DETRIMENTAL AFFECTS: The proposed rezoning does not appear to be incompatible with surrounding uses. Additional light, noise and traffic can be expected, but is not inconsistent with the existing adjoining Pebblebrook Apartments. The site was previously rezoned to R-3 District and was not found to adversely impact adjacent property. The proposed rezoning is consistent with the previous rezoning to R-3 District.

7. CONFORMANCE WITH COMPREHENSIVE PLAN: The site is shown on the Future Land Use Map, Southwest Planning Area, of the Manhattan Urban Area Comprehensive Plan (*attachment*). The site is designated Residential High Density (RHD), which means that possible densities can be 19-dwelling units, or greater, per net acre. The proposed density is 24.3-dwelling units per net acre and is consistent with the RHD designation.

The northwestern portion of the site is within the buildable part of the 100 Year Flood Plain, which is shown on the Land Use Map as an Environmentally Sensitive Area on the Plan. Residential construction is permitted in the buildable portion of the 100 Year Flood Plain as long as the lowest enclosed floor is at least 1-foot above the 100 Year Flood Elevation. In this case, the flood elevation is 1062-feet and the lowest floor of the buildings is shown at 1063-feet and 1063.5-feet, which is consistent with the flood plain requirements of the Zoning Regulations.

The PUD conforms to the Comprehensive Plan.

8. ZONING HISTORY AND LENGTH OF TIME VACANT AS ZONED: The site was annexed and rezoned to R-3 District on July 3, 2001. The PUD portion has remained vacant to date, although grading and filling on the site occurred with the initial grading for the adjacent apartment buildings.

Attachment No. 1

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

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: There appears to be no relative gain to the public that denial would accomplish, compared to the hardship to the owner. A Preliminary and Final Plat were previously approved and the PUD site has been annexed and rezoned for multiple-family development. It is well documented that a portion of Pebblebrook would be partially within a PUD, due to access constraints.

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

12. OTHER APPLICABLE FACTORS: None

13. STAFF COMMENTS AND RECOMMENDATION:

City Administration recommends approval of the proposed rezoning of Pebblebrook Addition, Unit Three, from R-3, Multiple-Family Residential District, to PUD, Residential Planned Unit Development District, with the following conditions:

1. 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.
2. All landscaping and irrigation shall be maintained in good condition.
3. Signs shall allow for exempt signage described in Article VI, Section 6-104 (A)(1), (2), (4), (5), (7) and (8); and, Section 6-104 (B)(2).

ALTERNATIVES:

1. Recommend approval of the proposed rezoning of Pebblebrook Addition, Unit Three, from R-3, Multiple-Family Residential District, to PUD, Residential 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 Pebblebrook Addition, Unit Three, from R-3, Multiple-Family Residential District, to PUD, Residential 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 Pebblebrook Addition, Unit Three, from R-3, Multiple-Family Residential District, to PUD, Residential Planned Unit Development District, based on the findings in the staff report, with the conditions recommended by City Administration.

PREPARED BY: Steve Zilkie, AICP, Senior Planner

DATE: June 1, 2004

04009

STAFF REPORT

ON AN APPLICATION TO REZONE PROPERTY

FROM: PUD, LL&G Commercial Planned Unit Development

TO: C-5, Highway Service Commercial District

APPLICANT: Sloan & Meier Surveyors as Agent for LL&G Inc.

ADDRESS: 103 S. 4th Street, Manhattan KS 66502

OWNER: LL&G Inc.

ADDRESSES: 2908 Plum, Hutchinson KS 67502

LOCATION: generally located in the southwestern corner of the Sirloin Stockade restaurant's parking lot. The tract is more generally located north of Faith Furniture, east of the Dillons Superstore, south of Sarber Lane, and west of the Sirloin Stockade restaurant.

AREA: a .1-acre (4,356 square feet) tract of land in Lot 1, LL&G Addition, Manhattan, Pottawatomie, KS

DATE OF PUBLIC NOTICE PUBLICATION: Monday, May 31, 2004

DATE OF PUBLIC HEARING: PLANNING BOARD: Monday, June 21, 2004
CITY COMMISSION: Tuesday, July 6, 2004

EXISTING USE: Green space and one (1) off-street parking space in the Sirloin Stockade parking lot. The rezoning site was identified as Phase Two on the Final Development Site Plan for a restaurant expansion (*see LL&G PUD attachments*), and was an optional area for parking lot expansion, to be constructed at a date to be determined by the owner. (Note: When the restaurant was expanded in 1992, a minimum of 130-parking spaces were needed to meet the requirements for a restaurant. The restaurant was expanded again in 1995, which required a minimum of 152-parking spaces. Currently there are 172-parking spaces, one of which will be lost, since it is in the rezoning site.)

PHYSICAL AND ENVIRONMENTAL CHARACTERISTICS: Grass and asphalt. The site is flat and in the 100 Year Flood Plain. The flood elevation is 1008 feet above sea level. The lowest enclosed floor of structures associated with new construction or substantial improvements must be elevated to 1009 feet.

SURROUNDING LAND USE AND ZONING:

- (1) **NORTH:** Parking lot, restaurant, vacant retail-service commercial tract of land, Sarber Lane, and auto related repair and service businesses; C-5 District and PUD.
- (2) **SOUTH:** Furniture store and E. Poyntz Avenue (US 24) Frontage Road and US 24 Highway; C-5 District.
- (3) **EAST:** Restaurant, Sarber Lane, K-Mart; PUD.
- (4) **WEST:** Retail-service commercial tract of land and vacant building, parking lot, and grocery store; C-5 District.

GENERAL NEIGHBORHOOD CHARACTER: The neighborhood is characterized by retail commercial and service commercial uses such as furniture sales, grocery stores, restaurants, auto repair and large retail stores.

SUITABILITY OF SITE FOR USES UNDER CURRENT ZONING: The site could be used for expansion of the Sirloin Stockade parking lot, at the owner's discretion. The site remains suitable for its intended purpose. The optional parking was not necessary to meet the required parking ratio for the restaurant.

COMPATIBILITY OF PROPOSED DISTRICT WITH NEARBY PROPERTIES AND EXTENT TO WHICH IT MAY HAVE DETRIMENTAL AFFECTS: The surrounding properties are developed with retail-service commercial uses and are zoned C-5 District and commercial PUD. Minimal impact on adjacent properties is anticipated as a result of the rezoning.

CONFORMANCE WITH COMPREHENSIVE PLAN: The site is shown on the Southeast Planning Area Future Land Use Map (*attachment*) as CC, Community Commercial. The designation is intended to provide for a unified mix of retail and commercial services in a community center. Small single-use sites, such as the rezoning site, also fit within the designation. The site is for expansion of a permitted existing furniture business, which is zoned C-5 District. The rezoning conforms with the Comprehensive Plan.

Attachment No. 2

ZONING HISTORY AND LENGTH OF TIME VACANT AS ZONED: The Sirloin Stockade restaurant was constructed in 1989/1990.

1969 - Annexation / I-2, Industrial Park District
1970 - I-2 District to C-5 District
1973 - C-5 District to K-Mart PUD
1982 - PUD to C-5 District
1989 - C-5 District to LL&G PUD
1992 – Amend LL&G PUD (building and parking lot expansion)
1995 – Amend LL&G PUD (building expansion)

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

The C-5 District is designed to provide for businesses offering accommodations, supplies, or services to motorists, and for certain specialized activities, which require access to major streets and highways. The rezoning is intended to allow for expansion of the Faith Furniture Store to the south, which is in the C-5 District. Furniture stores are a permitted use in the C-5 District.

RELATIVE GAIN TO THE PUBLIC HEALTH, SAFETY AND WELFARE THAT DENIAL OF THE REQUEST WOULD ACCOMPLISH, COMPARED WITH THE HARDSHIP IMPOSED UPON THE APPLICANT: There does not appear to be any adverse impact on the public as a result of the proposed rezoning. The rezoning is surrounded by C-5 District and commercial PUD. It may a hardship on the applicant if the rezoning is denied.

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

OTHER APPLICABLE FACTORS: None.

STAFF COMMENTS: A Replat (Final Plat) of the Faith Addition and the LL&G Addition, will be submitted, prior to expansion of the furniture store.

City Administration recommends approval of the proposed rezoning of a .1-acre tract of land in Lot 1, LL&G Addition, from PUD, LL&G Commercial Planned Unit Development, to C-5, Highway Service Commercial District.

ALTERNATIVES:

1. Recommend approval of the proposed rezoning of .1-acre tract of land in Lot 1, LL&G Addition, from PUD, LL&G Commercial Planned Unit Development, to C-5, Highway Service Commercial District, stating the basis for such recommendation.
2. Recommend denial of the proposed rezoning, stating the specific reasons for denial.
3. Table the proposed rezoning to a specific date, for specifically stated reasons.

POSSIBLE MOTION:

The Manhattan Urban Area Planning Board recommends approval of the proposed rezoning of a .1-acre tract of land in Lot 1, LL&G Addition, from PUD, LL&G Commercial Planned Unit Development, to C-5, Highway Service Commercial District, based on the findings in the Staff Report .

PREPARED BY: Steve Zilkie, AICP, Senior Planner

DATE: June 14, 2004

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