



***MINUTES
CITY COMMISSION MEETING
TUESDAY, OCTOBER 3, 2006
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 Tom Phillips, Mark Hatesohl, Jayme Morris-Hardeman, and Ed Klimek were present. Also present were the City Manager Ron R. Fehr, Deputy City Manager Diane Stoddard, Assistant City Manager Jason Hilgers, City Attorney Bill Frost, City Clerk Gary S. Fees, 11 staff, and approximately 82 interested citizens.

PLEDGE OF ALLEGIANCE

Mayor Snead led the Commission in the Pledge of Allegiance.

RECOGNITION

Mayor Bruce Snead and City Manager Ron Fehr recognized Fire Chief Jerry Snyder, Assistant Chief for Technical Services Don Francis and Fire Marshal Jim McDiffett for the Life Safety Achievement Award.

PROCLAMATIONS

Mayor Snead proclaimed October 1-7, 2006, *National 4-H Week*. Jessica Hatesohl, President, College Hill 4-H Club, and other representatives of the club were present to receive the proclamation.

October 8-14, 2006, *Fire Prevention Week 2006*. Fire Chief Jerry Snyder, Assistant Chief for Technical Services Don Francis, and Fire Marshal Jim McDiffett, were present to receive the proclamation.

PUBLIC COMMENTS

Mayor Snead informed the community that the City Commission received an update on the status regarding dangerous dogs and the current dangerous dog ordinance. He stated that the dangerous dog issue would be taken up for consideration at a future City Commission Work Session. He then asked if there were any public comments.

Jean Matthews, stated that she doesn't live in Manhattan, but asked that the ordinance be called something other than a dangerous dog ordinance, which has a negative connotation associated with these types of dogs.

Mike Larson, 416 Fremont Street, spoke on behalf of the Riley County Humane Society, and stated they oppose a breed specific ordinance and asked for additional enforcement.

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

COMMISSIONER COMMENTS

Commissioner Klimek asked if the dog situation near the Theodore Roosevelt School was addressed with the neighborhood.

Mayor Snead provided a summary on the briefing and status of the present dangerous dog ordinance and situation that occurred at Theodore Roosevelt. He said the City Commission would discuss the item at a future Work Session.

Ron Fehr, City Manager, provided an update on the dogs in question.

Commissioner Morris-Hardeman responded to comments made by Commissioner Klimek during the last legislative Commission meeting regarding the Parks and Recreation situation. She said the Management Report provided information on the actions that have taken place and that she was satisfied with the report, and that the legal process would provide closure within a reasonable period of time.

Commissioner Phillips stated that we have to rely on the Riley County Police Department information and the Management Report, and if new information can be brought forward on the Parks and Recreation situation, he would listen to that. He said that the court of law will handle this and was confident that adequate steps have been taken and that positive actions are occurring.

Commissioner Hatesohl stated the Parks and Recreation situation is an extremely regrettable issue and that he feels that those responsible have been dealt with. He

COMMISSIONER COMMENTS (*CONTINUED*)

understood the frustration, but said the criminal court system will hear the matter and was satisfied that everyone will be more alert to follow procedures and guidelines, and to be responsible to report any wrongdoings.

Mayor Snead said this activity with Parks and Recreation wasn't allowed to flourish as suggested. He said the whole situation has damaged morale and it is time to reestablish trust and confidence. He said there were controls in place, but they weren't being followed, and, that the violation of public trust must be dealt with legally and within the personnel policies to ensure that constructive and corrective actions are in place. He said the future evaluation of the City Manager will be done by the Commission during his annual evaluation.

CONSENT AGENDA

(* denotes those items discussed)

MINUTES

The Commission approved the minutes of the Regular City Commission Meeting held Tuesday, September 19, 2006, and the Special City Commission Meeting held on Tuesday, September 26, 2006.

CLAIMS REGISTER NO. 2569

The Commission approved Claims Register No. 2569 authorizing and approving the payment of claims from September 13, 2006, to September 26, 2006, in the amount of \$6,674,446.96.

LICENSE – TREE MAINTENANCE

The Commission approved the application for Affordable Tree Service, 821 Cottonwood Street, Emporia, Kansas, for a Tree Maintenance license for calendar year 2006.

FINAL PLAT – STOWE-BURTON ADDITION

The Commission accepted the easements and rights-of-way, as shown on the Final Plat of Stowe-Burton Addition, located southeast of the intersection of Leavenworth Street and North 5th Street, at 431 Leavenworth Street, based on conformance with the Manhattan Urban Area Subdivision Regulations.

FINAL PLAT – PRAIRIE LAKES ADDITION, UNIT 3

The Commission accepted the easements and rights-of-way, as shown on the Final Plat of Prairie Lakes Addition, Unit 3, generally located south of Walters Drive and east of Butterfield Road and Northfield Road intersection, based on conformance with the Manhattan Urban Area Subdivision Regulations.

CONSENT AGENDA (CONTINUED)

ORDINANCE NO. 6575 – AMEND I-2 DISTRICTS – ZONING REGULATIONS

The Commission approved Ordinance No. 6575 amending Section 4-302 (B)(1) of the Manhattan Zoning Regulations, I-2, Industrial Park District - Conditional Uses, by modifying “Car and truck washes”, to “Car, truck and/or dog washes”, based on the findings in the Staff Memorandum. *(See Attachment No. 1)*

ORDINANCE NO. 6576 – ANNEX – SCENIC MEADOWS ADDITION

The Commission approved Ordinance No. 6576 annexing the proposed 117-acre Scenic Meadows Addition, generally located on the east side of South Scenic Drive, based on general conformance with the Comprehensive Plan, the Growth Vision, and the Capital Improvements Program, and the findings of the Board of Riley County Commissioners.

ORDINANCE NO. 6577 – REZONE – SCENIC MEADOWS ADDITION

The Commission approved Ordinance No. 6577 rezoning the site as proposed, to R, Single-Family Residential District, and R-1, Single-Family Residential District with the AO, Airport Overlay District, based on the findings in the Staff Report. *(See Attachment No. 2)*

ORDINANCE NO. 6578 – 2007 SALARIES

The Commission approved Ordinance No. 6578 establishing a new range of salaries for City employees for 2007.

CHARTER ORDINANCE NO. 41 – 2007 COMPENSATION FOR COMMISSIONERS

The Commission approved Charter Ordinance No. 41 establishing a revised 2007 compensation for City Commissioners.

ORDINANCE NO. 6579 – REZONE – IVERNESS TOWNHOMES

The Commission overrode the recommendation of the Planning Board and modified the Preliminary Development Plan as proposed by the applicant; and approved Ordinance No. 6579 rezoning the site, generally located northeast of the intersection of Amherst Avenue and Miller Parkway, from C-2, Neighborhood Shopping District, to PUD, Residential Planned Unit Development District, based on the findings in the Staff Report, as modified by the revised proposal, with the six conditions of approval, as modified and recommended by City Administration. *(See Attachment No. 3)*

CONSENT AGENDA (CONTINUED)

ORDINANCE NO. 6580 – REPEAL EDUCATION QUARTER-CENT SALES TAX

The Commission approved Ordinance No. 6580 repealing the special quarter-cent sales tax by repealing Ordinance No. 6474, all effective December 31, 2006.

FIRST READING – ADOPT – 2006 STANDARD TRAFFIC ORDINANCE FOR KANSAS CITIES

The Commission approved first reading of the ordinance incorporating by reference the Standard Traffic Ordinance for Kansas Cities, Edition of 2006.

FIRST READING – LEVY BUSINESS IMPROVEMENT SERVICE FEES – AGGIEVILLE BUSINESS IMPROVEMENT DISTRICT

The Commission approved first reading of an ordinance levying Business Improvement Service Fees, for the year 2007, on businesses located within the Aggieville Business Improvement Districts.

FIRST READING – LEVY BUSINESS IMPROVEMENT SERVICE FEES – DOWNTOWN BUSINESS IMPROVEMENT DISTRICT

The Commission approved first reading of an ordinance levying Business Improvement Service Fees, for the year 2007, on businesses located within the Downtown Business Improvement District.

RESOLUTION NO. 100306-A – SET DATE - SELL GENERAL OBLIGATION BONDS 2006B

The Commission approved Resolution No. 100306-A setting November 7, 2006, as the date to sell \$7,460,000.00 in general obligation bonds (Series 2006B) and approve first reading of an ordinance issuing \$7,460,000.00 in general obligation bonds.

RESOLUTION NO. 100306-B – ESTABLISH – NATINAL INCIDENT MANAGEMENT SYSTEM

The Commission approved Resolution No 100306-B authorizing the Mayor and City Clerk to sign the resolution establishing the National Incident Management System as the incident system to be used for planning, response, recovery, and mitigation from both natural and manmade disasters within the City of Manhattan.

CHANGE ORDER NO. 1-FINAL – 2006 CURED-IN-PLACE SANITARY SEWER PIPE RELINING PROJECT (WW607P)

The Commission approved Change Order No. 1-Final for the 2006 Cured-in-Place Sanitary Sewer Pipe Relining Project, resulting in a net increase in the amount of \$44,966.00 (+19.31%) to the contract with Utility Maintenance Contractors, LLC, of Wichita, Kansas.

CONSENT AGENDA (*CONTINUED*)

AWARD CONTRACT – DESIGN PHASE I – WILDCAT CREEK LIFT STATION IMPROVEMENT PROJECT

The Commission authorized the Mayor to enter into a contract with BG Consultants, Inc., of Manhattan, Kansas, for the design of Phase I of the Wildcat Creek Lift Station Improvements project.

AGREEMENT – 24/7 CAMPAIGN – CHAMBER OF COMMERCE

The Commission authorized the Mayor and City Clerk to execute an agreement with the Manhattan Area Chamber of Commerce providing \$40,000.00 in funding during 2006-07 for the community marketing campaign.

PERFORMANCE HEARING – FAMILY AND CHILD RESOURCE CENTER

Mayor Snead opened the performance hearing.

Hearing no comments, Mayor Snead closed the performance hearing.

BOARD APPOINTMENTS

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

Douglass Center Advisory Board

Re-appointment of Glenna F. Burckel, 2031 Pierre St., to a three-year At-Large term. Ms. Burckel's term begins October 3, 2006, and will expire on October 2, 2009.

Municipal Band Board

Appointment of Gary Plumberg, 526 Fremont St., to a four-year term. Mr. Plumberg's term begins immediately and will expire on August 31, 2010.

Riley County Law Enforcement Board

Appointment of Jayme Morris-Hardeman, 1822 Laramie St. to fill an unexpired At-Large term for Brad Everett. Commissioner Morris-Hardeman's term begins immediately and will expire on December 31, 2006.

Commissioner Phillips moved to approve the consent agenda, as presented. Commissioner Morris-Hardeman seconded the motion. On a roll call vote, motion carried 5-0.

GENERAL AGENDA

FIRST READING – REZONE - NORTHWEST CORNER OF HAYES DRIVE AND MCCALL ROAD

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

After discussion, Commissioner Morris-Hardeman moved to approve first reading of an ordinance rezoning the approximate .88-acre site, generally located northwest of the intersection of Hayes Drive and McCall Road, from C-6, Heavy Commercial District, to C-5, Highway Service Commercial District, based on the findings in the Staff Report. (*See Attachment No. 4*) Commissioner Hatesohl seconded the motion. On a roll call vote, motion carried 5-0.

FIRST READING – REZONE - 1423 FAIR LANE

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

After discussion, Commissioner Hatesohl moved to approve first reading of an ordinance rezoning 1423 Fair Lane from I-3, Light Industrial District, to LM-SC, Light Manufacturing-Service Commercial District, based on the findings in the Staff Report. (*See Attachment No. 5*) Commissioner Morris-Hardeman seconded the motion. On a roll call vote, motion carried 5-0.

FIRST READING - PROHIBIT SMOKING

Jason Hilgers, Assistant City Manager, presented the item.

Tanner Banion, 1100 Fremont Street, informed the Commission that the K-State Student Senate passed a resolution to prohibit smoking and encouraged the Commission to protect the public health and welfare of workers in Manhattan.

Lucas Maddy, Student Body President, Kansas State University, read a resolution passed by the K-State Student Senate on September 28, 2006. He asked the Commission to protect public health and said that a complete smoking ban would breathe new life into the Constitution and improve the health of the community.

Linda De Coursey, Director of Advocacy, State of Kansas, American Heart Association, asked the Commission to endorse ordinance number one, which considers health issues and said a 100 percent smoke-free nation should be the goal.

GENERAL AGENDA (*CONTINUED*)

FIRST READING - PROHIBIT SMOKING (*CONTINUED*)

Kristin Bruce, representing the American Cancer Society, from Lindsborg, Kansas, informed the Commission that proposed ordinance two and three are fake and unacceptable. She asked the Commission to approve the Clean Air Manhattan ordinance to protect everyone from the dangerous exposure to second hand smoke.

Courtney Morrill, 3302 Shady Valley Drive, sophomore at Manhattan High School, stated the Commission can choose whether or not she breathes clean air and asked to protect our health, and enact a simple, strong and fair ordinance or nothing at all.

Stan Watt, 2817 Arbor Drive, serves on the Board for the Kansas Lung Association, informed the Commission that the City regulates many areas already and asked the Commission to support ordinance number one, as suggested by the Student Senate.

Mary Jane Hellebust, Tobacco Free Kansas Coalition, stated that second hand smoke should be eliminated and advocated for a strong, simple and fair ordinance as recommended by Clean Air Manhattan to protect our workers and the welfare of a public health policy.

Marcus Kit, 3428 Chimney Rock Road, sophomore at MHS, stating that second hand smoke is bad for your health. He asked the City Commission to protect his and other student's health and not allow the exemptions in the ordinance.

Dr. Ryan Knopp, member of Stonecreek Family Physicians, speaking on behalf of his colleagues and the medical society, said that the evidence is overwhelming; second hand smoke is a public health risk. He urged the Commission to pass the Clean Air Manhattan ordinance and to not include multiple exemptions.

David Seay, 803 Pierre Street, spoke in support of a restrictive ordinance given the amount of research and discussion that has been presented to the Commission. He thanked the Student Senate for coming forward and spoke of other communities who have passed a smoking ban.

Loren Pepperd, 3005 Tomahawk Circle, stated that it is a choice to smoke and believed in the freedom of rights of business owners to decide what occurs in their businesses. He said that cigarette smoke is bad for you, but so is radon.

Caleb Lowe, 4440 Tuttle Creek Boulevard, No. 304, stated that smoking is a choice; however, nonsmokers don't have a choice if breathing second-hand smoke is affecting their health.

GENERAL AGENDA (*CONTINUED*)

FIRST READING - PROHIBIT SMOKING (*CONTINUED*)

Jason Humes, 615 Bertrand Street, works at So Long Saloon, asked about the limits of enforcement and responsibility of a legal product.

Rebecca Grives, 1723 Hollow Tree Lane, informed the Commission that she was under the legal age to buy tobacco and that it was not fair as a non-smoker to be around those that smoke in public.

Billy Porter, 3708 Crossgate Circle, stated that exemptions are needed until the state or the country decides not to sell cigarettes. He voiced support for ordinance two or three.

George Hodges, 423 Fremont Street, informed the Commission that the Student Body President doesn't speak for every student at K-State and asked the Commission consider ordinance two or three.

Emily Berry, Manhattan High School student, 1300 Wyndham Heights, asked the Commission to pass an ordinance banning smoking.

Dr. James Gardner, Past State President of the Kansas Lung and Heart Association, thanked the Commission for the debate and stated that ordinance one is the best option.

Joan Covert, 900 Gillespie Drive, informed the Commission that she has a child who has asthma and has witnessed the negative effects of second-hand smoke that lingers in a room.

Dee Robert Ross, 2304 Brockman, stated that the proposed ordinances dictate to the business owner what they can and can't do and are listening to a small minority. He asked that this issue be put to the voters with a city-wide referendum.

Linda Richter, 2383 Grandview Terrace, said the electorate has had input and elected you as a representative government to exercise your responsibility. She urged the Commission to think about the information received from the general public and to support the Clean Air Manhattan ordinance.

Charlene Brownson, Chair, Clean Air Manhattan, spoke about the health facts and consequences that are known about second-hand smoke. She said that ordinances two and three are not good ordinances and impossible to enforce, and asked the Commission to pass the Clean Air Manhattan ordinance or no ordinance at all.

GENERAL AGENDA (*CONTINUED*)

FIRST READING - PROHIBIT SMOKING (*CONTINUED*)

Bob Kennedy, 2001 Hillview Drive, stated the issue is to support the mission statement of protecting public health and safety. He said we have scientific and empirical evidence that second-hand smoke is not healthy for us and we need an ordinance to protect and preserve the health and safety of our community, as we have currently with zoning codes.

Chuck Murphy, Director, Manhattan/Riley County Health Department, informed the Commission that this issue was brought to the Commission about seven years ago. He said the Health Board voted to adopt a strong ordinance as proposed by Clean Air Manhattan and stated that government has the ability to control the quality of air consumers and employees must breathe.

Ann Gleason, 2234 Prairie Glen Place, said that she was a cancer survivor and understood that she and others are more susceptible to second-hand smoke and asked that a strong ordinance be put into place.

The Commission took a brief recess at 9:25 p.m.

Bill Frost, City Attorney, and Ron Fehr, City Manager, responded to questions raised regarding enforcement and duties of the proprietor, as outlined in the proposed ordinance.

Mayor Snead responded to questions regarding radon and the enforcement of the proposed ordinances.

After discussion, Mayor Snead moved to approve first reading of an ordinance prohibiting or restricting smoking in all places of employment, with four exemptions. Commissioner Morris-Hardeman seconded the motion.

After additional discussion, on a roll call vote, motion failed 2-3, with Commissioners Phillips, Hatesohl and Klimek voting against the motion.

Ron Fehr, City Manager, answered additional questions from the Commission regarding conformance and education.

Jason Hilgers, Assistant City Manager, and Ron Fehr, City Manager, provided additional clarification on the item and exemptions.

After additional discussion, Commissioner Phillips moved to adopt first reading of ordinance number two, as presented in the packet. Commissioner Hatesohl seconded the motion.

GENERAL AGENDA (CONTINUED)

FIRST READING - PROHIBIT SMOKING

After additional discussion, on a roll call vote, motion carried 3-2, with Mayor Snead and Commissioner Morris-Hardeman voting against the motion.

Ron Fehr, City Manager, informed the Commission that second reading may be longer than two weeks to allow appropriate time to research issues related to the item.

WESTAR REAL-ESTATE CONTRACT AND RELOCATION OF SERVICE - DOWNTOWN REDEVELOPMENT AREA

Jason Hilgers, presented the item and answered questions from the Commission.

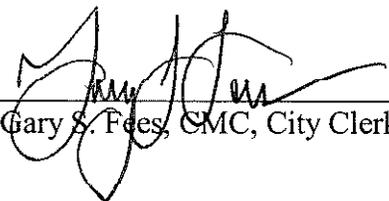
Chad Luce, Westar Energy, provided additional information on the item and answered questions from the Commission.

Rick Kiolbasa, Dial Realty, responded to questions from the Commission.

After discussion, Commissioner Hatesohl moved to approve the Real Estate Contract and Relocation Agreement with Westar Energy for its substation located at 2nd and Leavenworth Streets. Commissioner Morris-Hardeman seconded the motion. On a roll call vote, motion carried 5-0.

ADJOURNMENT

At 10:47 p.m. the Commission adjourned.



Gary S. Fees, CMC, City Clerk



INTER-OFFICE MEMORANDUM

DATE: July 31, 2006

TO: Manhattan Urban Area Planning Board

FROM: Bret (Bee) Martin, Planning Intern

RE: Proposed Amendment to the Manhattan Zoning Regulations to Allow Dog Washes as a Conditional Use in the I-2, Industrial Park District.

BACKGROUND

Tom Abbott (attachment) has requested a text amendment to the Manhattan Zoning Regulations to modify Article IV, District Regulations, Section 4-302, I-2, Industrial Park District, (B)(2) Conditional Uses, in order to allow "Dog washes" as a Conditional Use. The applicant's proposed amendment reads, "Car, truck and dog washes." The proposed wording expands the existing the vehicle wash facilities, car and truck washes, which are a Conditional Use in the I-2 District and specifically allows only dog washes.

The applicant currently owns a self-storage and car wash facility located at 470 and 480 McCall Road on one 4.44-acre lot, where the proposed dog wash is to be located. In January, 2002, the car wash at 470 McCall Road, under different ownership, was granted a Conditional Use for a car/truck wash in the I-2 District. The Zoning Regulations do not include "dog washes" as a permitted or conditional use, and the amendment is necessary for Abbott to be able to apply for a Conditional Use Permit to include a dog wash as a use at the existing car wash.

The term "Dog Washes" is not defined in the Manhattan Zoning Regulations, and currently, dog washes are not a permitted or conditional use in any district within the City; however, Pet Grooming Shops are a permitted use in certain commercial districts. The applicant currently owns a car wash at the intersection of Bluemont Avenue and N. 12th Street, which is in the C-3, Aggieville Business District. The dog wash at the Aggieville location is allowed because Pet Grooming Shops are a permitted use in the C-3 District. The existing dog wash facility in Aggieville is a small self-contained unit with a walk-up wash basin for pets, with coin operated washing devices, cleaning materials, and bags for

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any animal waste attached to the walls of a partially enclosed metal washing area (see attached picture). The single washing area on the property is located between two sets of two wash bays for cars.

Dog washes exist in many communities in the U.S., both as indoor and outdoor self-serve facilities. Dog washes have been permitted either as a conditional use or accessory use in a number of different zones in these communities ranging from commercial to industrial. City Administration's research found that during an analysis of communities in various states, the most common way to address the zoning necessity of dog washes is to treat it as a conditional use.

Through discussions with cities, City Administration determined that no major health or general welfare issues or concerns were emphasized. Some minor concerns included the filtration of dog hair from getting into the City's wastewater system; the possible corrosive or toxic nature of chemicals used for animal bathing or other fluids generated getting into the wastewater system; and whether or not an attendant would be present to clean bathing tubs or remove any potential animal waste on-site. All of these issues were concerns, whether the proposed use would be indoors or outdoors. Every community contacted expressed the concern of pet hair filtration, and most expressed the concern of having an attendant present on-site to ensure the facility is clean and free of animal waste. These concerns can be addressed through the conditional use process.

Within commercial and industrial districts, noise from animals was not conveyed as a concern in other communities. In one community that included dog washes as an accessory use to a proposed car wash with a conditional use application, City Administration, the Governing Body, and the Planning and Zoning Commission had no concerns regarding the dog wash as a part of the car wash. In that particular case, because the proposed facility abuts an airport, additional noise from the pet wash use was not a concern. Generally, in the communities surveyed, in areas where noise levels are not as serious of a concern, dog washes have been permitted to operate. (See attached pictures for existing dog washes in other communities.)

AMENDMENTS TO THE TEXT OF THE ZONING REGULATIONS

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

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

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The intent and purpose of the Zoning Regulations is to divide the City of Manhattan into zones and districts; to regulate and restrict the location and use of buildings and the uses of land within each district and zone; to restrict the use of buildings and land for agriculture, dwellings, business, industry, conservation and other purposes; to promote the health, safety, morals, comfort and general welfare; and to conserve and protect property values throughout the City. Their intent is also to regulate and restrict the height, number of stories and size of buildings; the percentage of a lot that may be occupied by buildings and other structures; the size of yards, courts and other open spaces; the density of the population; the location, use and appearance of buildings, structures and land for residential, commercial, industrial and other purposes; the conservation of natural resources, including agricultural land; and the use of land located in areas designated as flood plains and other areas, including the distance of any buildings and structures from a street or highway.

The I-2 District is designed to allow a broad range of manufacturing and research activities in a large lot industrial park setting. Permitted Uses in this district include light manufacturing activities engaged in the transformation of predominantly secondary or partially finished materials; adult businesses; bulk storage; kennels; animal shelters; public utilities that are not owned or operated by a municipality; research and testing laboratories; transportation systems facilities; vehicle towing and storage service; vocational educational facilities; and warehousing and distribution. Conditional uses in the district include car and truck washes, group day care centers, and health and fitness clubs.

Permitted Uses are those that are allowed “by right”, subject to use limitations and bulk regulations and require no public review prior to construction, unless the Board of Zoning Appeals (BZA) considers an Exception or Variance of a zoning requirement as a result of some part of the use not fully complying as proposed.

A Conditional Use is one that is generally considered to be allowed, but may have adverse affects on adjacent property and must first be considered by the BZA, prior to construction. The Conditional Use process requires notification to property owners within 200 feet of the property for which the Conditional Use Permit is requested and a public hearing to evaluate the impacts or any concerns of the specific proposal. The BZA considers the application based on a set of standards, all of which must be met in order for the Board to grant the Conditional Use. The Board may approve, approve with conditions, or deny a request. Its decisions are final and may be appealed to District Court.

As proposed by the applicant, dog washes are generally outdoor operations, even though, as observed in other communities, they can also function indoors. A patron would drive up to the facility and walk their dog outdoors up to a wash basin containing a jet sprayer that releases water and shampoo, a drying hose, and bags for any animal waste generated from

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the dogs. The wash basin is controlled by a coin-operated machine providing a variety of cleaning services. In this case, a vehicle using the facility would need to be parked somewhere on-site.

This particular use may have impacts on some of the permitted activities in the I-2 District such as research and testing laboratories or vocational educational facilities. However, other uses such as light manufacturing, adult businesses, bulk storage, animal shelters, kennels, vehicle towing, and warehousing and distribution would not likely be adversely affected by a dog wash. Because several of the permitted uses in the I-2 District are pet- or animal-related, the proposed conditional use should fit in the I-2. Considering the proposed use on a case-by-case basis is consistent with the intent of the Conditional Use process.

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

The I-2 District is the only district affected by the proposed amendment. There are two I-2 District locations in the City. The first location, where the applicant proposes the dog wash, includes a large portion of the part of the City located in Pottawatomie County east of Tuttle Creek Boulevard and includes much of McCall Road, Hayes Drive, Hostetler Drive, Levee Drive, and Kretschmer Drive. Uses currently existing in this district include self-serve storage units, a health and fitness club, machine shops, vehicle towing and storage, pest control services, shipping service companies, heating and cooling service business, and light production operations among others. The second I-2 District is located east of the intersection of Amherst Avenue and Seth Child Road, north of Amherst Avenue and west of Wildcat Creek. Some properties and uses within the I-2 District may be affected, however, the conditional use process will determine if there are any adverse affects on adjacent properties, and the BZA may place limitations and/or conditions on the use to mitigate those effects.

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

There is a general lack of available vacant commercial land within the City for non-retail service commercial uses. Also, no district within the City currently allows dog washes as a Permitted or Conditional Use, although Pet Grooming Shops are allowed in some districts. Dog washes are a relatively new business concept in the Manhattan area and the U.S. The proposed amendment is made necessary because the current text of the Zoning

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Regulations do not accommodate this particular use in the form it is proposed, although it could be allowed as a pet Grooming Shop if it were within certain commercial districts.

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

The Manhattan Urban Area Comprehensive Plan (the Plan) indicates that the Industrial (IND) category is “intended to provide locations for light and heavy manufacturing, warehousing and distribution, indoor and screened outdoor storage, and a wide range of other industrial services and operations.” The uses permitted in IND may generate an excessive amount of noise relative to residential and commercial districts and the Plan notes that industrial “should have access to one or more arterials or highways” to accommodate for heavier traffic demands and larger vehicles. The Plan also states, “Industrial uses should generally be located away from population centers or must be adequately buffered.” According to the Plan, “Light industrial uses can typically be located in areas that also contain some highway-oriented commercial uses, and might benefit from close proximity and better access to their local customer base.” Car and truck washes as well as the proposed dog wash are generally highway-dependent operations that largely rely on a high volume of traffic and street visibility for their business. Allowing dog washes in the I-2 District would generally be consistent with the previous statement regarding the compatibility of highway-dependent operations in a light industrial district.

ALTERNATIVES

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

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

RECOMMENDATION

City Administration recommends approval of an amendment to modify Section (B) (1), Conditional Uses, “Car and truck washes”, in Article IV, District Regulations, Section 4-302, of the I-2, Industrial Park District, to allow “Car, truck and/or dog washes”.

POSSIBLE MOTION

The Manhattan Urban Area Planning Board recommends approval of an amendment to modify Section (B) (1), Conditional Uses, "Car and truck washes", in Article IV, District Regulations, Section 4-302, I-2, Industrial Park District, to allow "Car, truck and/or dog washes", based on the findings in the Staff Memorandum.

06143

STAFF REPORT

ON AN APPLICATION TO REZONE PROPERTY

FROM: County G-1, General Agricultural District

TO: Two tracts of land in the proposed Scenic Meadows Addition:

Tract 1, an approximate 77-acre tract, rezone to: R-1, Single-Family Residential District with AO, Airport Overlay District.

Tract 2, an approximate 40-acre tract, rezone to: R, Single-Family Residential District with AO, Airport Overlay District.

APPLICANT/OWNER: Frank A. Tillman, Tillman Partners LLC

ADDRESS: 1328 Sharingbrook Drive, Manhattan, KS 66503

LOCATION: generally located 2,600 feet north of the intersection of Eureka Drive and Scenic Drive along the east side of South Scenic Drive, which is at the northern edge of the Eureka Valley, on the east side of South Scenic Drive and north of the Faith Baptist Church, 1001 S. Scenic Drive

AREA: approximately 117-acres.

DATE OF PUBLIC NOTICE PUBLICATION: Monday, May 29, 2006

DATE OF PUBLIC HEARING: PLANNING BOARD: Monday, June 19, 2006

CITY COMMISSION: Tuesday, August 1, 2006

EXISTING USE: Agricultural fields, woodlands, including steeply sloped wooded areas, and wetland.

PHYSICAL AND ENVIRONMENTAL CHARACTERISTICS: A portion of the site is in the 100 Year Flood Plain. Drainage is to the south and east. Cultivated farm fields separated by a wooded area. The northern portion of the site is a steeply sloped wooded area. There is a wetland in the southern portion of the site, as well as streams designated as Waters of the U.S.

SURROUNDING LAND USE AND ZONING:

(1) **NORTH:** rangeland, and single-family dwelling; G-1 District.

(2) **SOUTH:** church, agricultural fields; G-1 District.

(3) **EAST:** agricultural fields; G-1 District.

(4) **WEST:** agricultural fields; G-1 District.

GENERAL NEIGHBORHOOD CHARACTER: Generally characterized as an agricultural neighborhood with rural residential uses to the north. There has been faster than anticipated residential growth in the Miller Ranch Planning Area to the north and northeast. Developments such as Lee Mill Heights and Stone Pointe in the Miller Ranch area may approach the boundary of Scenic Meadows within the next several years, assuming the City continues to expand at the present rate.

SUITABILITY OF SITE FOR USES UNDER CURRENT ZONING: The site is suitable for the agricultural purposes of the G-1 District.

COMPATIBILITY OF PROPOSED DISTRICT WITH NEARBY PROPERTIES AND EXTENT TO WHICH IT MAY HAVE DETRIMENTAL AFFECTS: An increase in light, noise, and traffic can be expected with the proposed Scenic Meadows Addition, which will consist of approximately 142 single-family dwelling units. Rural residential uses to the north should not be adversely affected. A church abutting the southern boundary of the site should not be adversely impacted.

CONFORMANCE WITH COMPREHENSIVE PLAN:

Southwest Planning Area

The 117-acre site is shown on the Southwest Planning Area Future Land Use map of the Comprehensive Plan as a combination of Agriculture, Environmentally Sensitive Areas and Residential Low/Medium Density (RLM). The RLM portion is a small area located in the northeastern part of the site on an upper ridge, with the remainder of the site designated agricultural and environmentally sensitive areas. Policy statements are in Chapter 4 of the Comprehensive Plan.

Residential Low/Medium Density (RLM) Policies

The RLM category is most often characterized by single-family, single-family attached, duplex, and town homes. Densities in the RLM designation range between less than one dwelling unit/acre up to 11 dwelling units per net acre. Residential Low/Medium Density

neighborhoods typically should be located where they have convenient access and are within walking distance to community facilities and services that will be needed by residents of the neighborhood, including schools, shopping areas, and other community facilities.

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 of steep slope, 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, steep slope and 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 small portion of the site is identified as Prime Agricultural Land. Steep slopes of greater than 20%, 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.

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.

Growth Management policies in Chapter 4 of the Comprehensive Plan encourage: the City and County to strive to balance outward growth and redevelopment of established areas; locate future urban development within the geographical limits of the Urban Service Area Boundary; ensure that all development within these areas shall be compatible with the

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future vision and principles of this Comprehensive Plan; and, consider new growth based on the adequacy of facilities and services, environmental constraints and market considerations. Leapfrog development should be minimized by efficient use of services.

ZONING HISTORY AND LENGTH OF TIME VACANT AS ZONED: The site has remained vacant, except for those areas used for agricultural purposes. The site has been zoned G-1 District for an undetermined length of time. An application to plat and rezone the site to a Planned Unit Development was submitted to the Riley County Planning and Development Department and was tabled at the May 15, 2006, Manhattan Urban Area Planning Board for a maximum of one year in order for annexation, rezoning, and platting requests to proceed through the City.

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-1, Single-Family Residential District, is designed to provide a single-family dwelling zone at a density no greater than one dwelling unit per 6,500 square feet. Minimum lot area is 6,500 square feet for a single-family dwelling. 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.

Lots located in the 100 Year Flood Plain are subject to the requirements of the Flood Plain Regulations of the Manhattan Zoning Regulations, which require homes to be elevated on fill with the lowest enclosed floor, including a basement, to be at least one foot above the 100 Year Flood elevation..

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.”

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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: The applicant has requested water and sanitary sewer services from the City in order to protect the public health, safety, and welfare. If City services are not provided, the applicant would likely request alternative services from Riley County. Denial of the request may be an adverse impact on the future public living in Scenic Meadows, if City services are not provided. It may be a hardship on the applicant if the rezoning is denied.

ADEQUACY OF PUBLIC FACILITIES AND SERVICES: The 117-acre tract is within the Urban Service Area and can be served by public improvements, including street (South Scenic Drive), water (located along South Scenic Drive), fire service (located at the Manhattan Regional Airport), and sanitary sewer, which must be extended to the site from approximately 2,000 feet to the southeast at an existing sanitary sewer lift station near K-18 highway. Easements across adjacent property must be obtained for sanitary sewer to be provided.

OTHER APPLICABLE FACTORS: The Preliminary Plat of the Scenic Meadows Addition will be considered by the Manhattan Urban Area Planning Board on June 19, 2006. Approval of the Plat is subject to the requirements of the Manhattan Urban Area Subdivision Regulations.

STAFF COMMENTS: In general, the rezonings to R/AO and R-1/AO do not conform to the Comprehensive Plan based on policy statements in the Comprehensive Plan for the Eureka Valley Special Planning area. However, as a growth management issue, and if it is assumed the site will be developed as proposed, then Scenic Meadows must be served with City water and sanitary sewer services because the proposed subdivision is located in the Urban Service Area. Subdivisions, which are in the Urban Service Area, are required to be designed to conform to City design standards for services and storm water requirements. Alternative rural services to serve the subdivision would be inconsistent with the Comprehensive Plan, as well as contrary to the public interest. Rural alternative systems should not be encouraged as the site is in the Urban Service Area.

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Based on growth factors and the importance of ensuring that Scenic Meadows is served with the full range of City services, rather than rural alternative services, City Administration recommends approval of the rezonings of the Scenic Meadows Addition, from County G-1, General Agricultural District, to: Tract 1, rezone to: R-1, Single-Family Residential District with AO, Airport Overlay District; and, Tract 2, rezone to: R, Single-Family Residential District with AO, Airport Overlay District.

ALTERNATIVES:

1. Recommend approval of the proposed rezoning of Scenic Meadows Addition from County G-1, General Agricultural District, to: Tract 1, rezone to: R-1, Single-Family Residential District with AO, Airport Overlay District; and, Tract 2, rezone to: R, Single-Family Residential District with AO, 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 Scenic Meadows Addition from County G-1, General Agricultural District, to: Tract 1, rezone to: R-1, Single-Family Residential District with AO, Airport Overlay District; and, Tract 2, rezone to: R, Single-Family Residential District with AO, Airport Overlay District, based on the findings in the Staff Report .

PREPARED BY: Steve Zilkie, AICP, Senior Planner

DATE: June 14, 2006

06012

STAFF REPORT

ON AN APPLICATION TO AMEND THE APPROVED PLANNED UNIT DEVELOPMENT (PUD) AND REZONE A PORTION TO ADD THE AO, AIRPORT OVERLAY DISTRICT

BACKGROUND

APPLICANT: Purple Pride Developers.

ADDRESS: 1228 Westloop Place, PMB 360, Manhattan KS 66502.

OWNERS: Purple Pride Developers, Steven and Cherie Graham, Andrew Shermak, Frederic C and Natalie Appl, SW and Carol Gunter Trust, George E Ham Trust and Alice S Ham Trust, Thomas E and Linda Floersch, and Robert and Margaret Barber.

LOCATION: north of the intersection of Miller Parkway and Brianna Court.

AREA: 9.5 acres.

DATE OF PUBLIC NOTICE PUBLICATION: Monday, July 31, 2006

DATE OF PUBLIC HEARING: PLANNING BOARD: Monday, August 21, 2006

CITY COMMISSION: Tuesday, September 5, 2006

DESCRIPTION OF PROPOSED AMENDMENT: Modify the approved PUD Final Development Plan and Ordinance No. 6254 to add an one, two-family dwelling unit (proposed Lot 12A/12B) in the southwestern part of the PUD on the west side of Brianna Court in common area Lot 1; and, add a single-family dwelling (proposed Lot 13) in the interior common area Lot 2 along Brianna Court. Homes are constructed with materials approved with the PUD, except that dwellings are one story with basement, rather two-stories.

In addition, a portion of the site is in the AO, Airport Overlay District. That part of the PUD affected by the AO District will be rezoned from PUD, Residential Planned Unit Development District, to PUD, Residential Planned Unit Development District with AO District. The AO District affects parts of common areas, Lots 1 and 2, and Lots 1A/1B to 5A/5B, and 9A/9B to 13. Lots 6A/6B to 8A/8B is outside the AO District.

MATTERS TO BE CONSIDERED WHEN AMENDING A PLANNED UNIT DEVELOPMENT

WHETHER THE PROPOSED AMENDMENT IS CONSISTENT WITH THE INTENT AND PURPOSE OF THE APPROVED PUD, AND WILL PROMOTE THE EFFICIENT DEVELOPMENT AND PRESERVATION OF THE ENTIRE PUD: The applicant indicates that, “The intent of The Town homes at Miller Ranch was to provide up-scale medium density residential housing with an association that takes care of the day-to-day maintenance of mowing, moving snow, etc. We believe that purpose is preserved with the proposed revisions.”

The PUD is a low density residential neighborhood and the intent is met.

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 indicates in the attached documents that terrain changed the original intent to have side loaded garage entries. Front entrances allow for the additional proposed dwelling units.

For financial reasons, the original owner did not pursue the project and the applicant purchased the property and has developed the site, which would otherwise likely be vacant.

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 addition of the AO District to that part of the PUD affected by the Conical Zone will ensure construction conforms with the AO District. The public is otherwise not adversely affected by the proposal. The additional dwellings units are available to the general public.

ADDITIONAL MATTERS TO BE CONSIDERED WHEN AMENDING A PLANNED UNIT DEVELOPMENT

APPROVED 2002 LOT COVERAGE

<u>Use</u>	<u>Acres/Square Feet</u>	<u>Percentage</u>
Residential Structures	1.15 Acres	12%
Open/Green Space	7.02 Acres	74%
Streets, Drives and Walks	1.34 Acres	14%

PROPOSED 2006 LOT COVERAGE

<u>Use</u>	<u>Acres/Square Feet</u>	<u>Percentage</u>
Residential Structures	1.79 Acres	19%
Open/Green Space	6.29 Acres	66%
Streets, Drives and Walks	1.41 Acres	15%

PROPOSED SIGN

<u>Type</u>	<u>Dimensions</u>	<u>Lighting</u>
1 ground signs	<i>Approx. 4 feet in height</i>	<i>Externally lit</i>

The proposed ground sign is a brick post with optional external light on the post.

PROPOSED LIGHTING: Street light poles are proposed to be located within the public right-of-way. Standard residential house lighting will be on the dwelling unit porches and garages.

1. LANDSCAPING: The site will have a mixture of lawn, deciduous shade trees, evergreen trees and ornamental trees. A boundary of native field grasses will border the improved part of the site. The trees are mostly concentrated along the Miller Parkway frontage and within the central common area. The Townhomes at Miller Ranch Home Owners Association will be responsible for the maintenance of the common areas and traffic islands.

2. SCREENING: There is no proposed structure or uses, which require screening.

3. DRAINAGE: Storm water is directed to an existing pond in the northwest corner of the site which serves the detention needs of the site, as well as part of Lee Mill Heights. An updated drainage report was not required with the amendment as the additional run-off is minimal. Adequate drainage easements are provided to serve the subdivision.

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4. CIRCULATION: Access to lots is from Brianna Court, a circular street, which intersects with Miller Parkway. Sidewalk is provided along the outside of Brianna Court and will connect to sidewalk on Miller Parkway. The minimum off-street parking required for a duplex and single-family dwelling is two spaces per unit. Each home will provide a driveway and two off-street parking spaces, within an enclosed garage. In addition, six off-street guest parking spaces are proposed off Brianna Court.

5. OPEN SPACE AND COMMON AREA: The approved PUD notes that 7.2 acres, or 74% of the site, will consist of open green space common area. The proposed amendment reduces open space to 6.29 acres, or 66% of the site.

6. CHARACTER OF THE NEIGHBORHOOD: The neighborhood is developing as a mixture of single-family detached and residential townhomes. An I-5 District is in the neighborhood and, for the most part, is undeveloped, except for a federal office building, which is under construction.

EXISTING USE: A two-family residential PUD. Dwelling units on Lots 4A/4B to 8A/8B have been constructed. Lot 10A/10B is under construction. Common areas are owned and maintained by a home owner's association.

PHYSICAL AND ENVIRONMENTAL CHARACTERISTICS: The land is rolling with ravines along three (3) property lines. The ravines are heavily timbered with rock outcroppings. An existing detention basin is located at the north end of the PUD.

SURROUNDING LAND USE AND ZONING:

(1) **NORTH:** Vacant range land owned by USD 383 and Miller Ranch, Unit 3; G-1 District, and R, Single-Family Residential District.

(2) **SOUTH:** Miller Parkway and undeveloped Miller Ranch Office Park; G-1 District, and I-5, Business Park District.

(3) **EAST:** Undeveloped neighborhood shopping site proposed as Inverness Townhomes PUD, and single-family homes; I-5 District, C-2, Neighborhood Shopping District, proposed PUD, and R District.

(4) **WEST:** Single-family residential townhomes and single-family dwelling units; PUD/AO and R District/AO.

GENERAL NEIGHBORHOOD CHARACTER: see above.

SUITABILITY OF SITE FOR USES UNDER CURRENT ZONING: The site is zoned and is suitable for two-family dwelling units, subject to Ordinance No. 6254 (attached).

COMPATIBILITY OF PROPOSED DISTRICT WITH NEARBY PROPERTIES AND EXTENT TO WHICH IT MAY HAVE DETRIMENTAL AFFECTS: An increase in light, noise and traffic is expected. These impacts are minimal. Three total dwelling units are proposed, which are consistent with the developed low density residential character of the neighborhood.

CONFORMANCE WITH COMPREHENSIVE PLAN: The Future Land Use Map of the Manhattan Urban Area Comprehensive Plan designates the site as Residential Low/Medium density (RLM) (*Southwest Planning Area Future land Use Map attached*). Appropriate density range for development in the RLM designation is one-dwelling unit up to 11-dwelling units per net acre. The RLM category is intended to incorporate a range of housing types, from single-family and two-family to townhomes.

Net density is 3 dwelling units per net acre. The existing PUD was found to conform to the Plan in 2002.

CHAPTER 13: SPECIAL PLANNING AREA POLICIES

MILLER RANCH

MR 7: Airport Airspace Regulations

Development shall be consistent with established airspace regulations for the Manhattan Regional Airport and the Airport Master Plan.

The amendment and rezoning conform to the Comprehensive Plan.

ZONING HISTORY AND LENGTH OF TIME VACANT AS ZONED: The Townhomes at Miller Ranch Residential PUD was established in 2002 and is developing with two-family dwelling units.

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

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density, transportation facilities and community facilities; and a development plan which addresses specific needs and unique conditions of the site which may require changes in bulk regulations or layout. The proposed amendment and addition of the AO District is consistent with the intent and purposes of the Zoning Regulations, and the intent of the PUD Regulations.

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 partially within the Conical Zone, which is, in general terms, established as 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 relative gain to the public, which denial would accomplish. The AO District requires that future uses be reviewed in order to protect airspace. No adverse impacts to the public are expected. There may be a hardship to the applicant if the amendment and rezoning are denied

ADEQUACY OF PUBLIC FACILITIES AND SERVICES: The site is served by public street, sanitary sewer and water. Services are adequate.

OTHER APPLICABLE FACTORS: None.

STAFF COMMENTS:

City Administration recommends approval of the proposed Amendment of the Final Development Plan of The Townhomes at Miller Ranch and Ordinance No. 6254, and, the rezoning of a part of The Townhomes at Miller Ranch from PUD, Residential Planned Unit Development, to PUD, Residential Planned Unit Development, with AO, Airport Overlay District, the following conditions:

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1. Permitted uses shall include single-family dwelling unit and two-family dwelling units.
2. Landscaping and irrigation shall be provided pursuant to a Landscaping Performance Agreement between the City and the owner, which shall be entered into prior to issuance of a building permit.
3. All landscaping and irrigation shall be maintained in good condition.
4. Signs shall be provided as proposed and shall include exempt signage described in Article VI, Section 6-104 (A)(1),(2),(4),(5),(7) and (8); and Section 6-104 (B)(2), of the Manhattan Zoning Regulations.

ALTERNATIVES:

1. Recommend approval of the proposed Amendment of the Final Development Plan of The Townhomes at Miller Ranch and Ordinance No. 6254, and, the rezoning of a part of The Townhomes at Miller Ranch from PUD, Residential Planned Unit Development, to PUD, Residential Planned Unit Development, with AO, Airport Overlay District , stating the basis for such recommendation.
2. Recommend approval of the proposed Amendment of the Final Development Plan of The Townhomes at Miller Ranch Residential Planned Unit Development, 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 Amendment and rezoning, stating the specific reasons for denial.
4. Table the proposed Amendment and rezoning to a specific date, for specifically stated reasons.

POSSIBLE MOTION:

The Manhattan Urban Area Planning Board recommends approval of the proposed Amendment of the Final Development Plan of The Townhomes at Miller Ranch and Ordinance No. 6254, and, the rezoning of a part of The Townhomes at Miller Ranch from PUD, Residential Planned Unit Development, to PUD, Residential Planned Unit

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Development, with AO, Airport Overlay District, based on the findings in the Staff Report, with the four (4) conditions recommended by City Administration.

PREPARED BY: Steve Zilkie, AICP, Senior Planner

DATE: August 13, 2006

06019

STAFF REPORT

ON AN APPLICATION TO REZONE PROPERTY

FROM: C-6, Heavy Commercial District.

TO: C-5, Highway Service Commercial District.

APPLICANT: Ron Oberg.

ADDRESS: 1245 Bracken Court, Wichita KS 67206.

OWNERS: BBV LLC.

ADDRESSES: 1901 Ft. Riley Boulevard, Manhattan, KS 66502.

LOCATION: northwest of the intersection of Hayes Drive and McCall Road.

AREA: approximately .88-acres (38,333 square feet).

DATE OF PUBLIC NOTICE PUBLICATION: Monday, August 28, 2006

DATE OF PUBLIC HEARING: PLANNING BOARD: Monday, September 18, 2006

CITY COMMISSION: Tuesday, October 3, 2006

EXISTING USE: Vacant heavy commercial tract of land.

PHYSICAL AND ENVIRONMENTAL CHARACTERISTICS: flat grass covered site, which drains to open swales along the south and east sides of the property. The tract is in the 100 Year Flood Plain. The 100 Year Flood elevation is 1008 feet above sea level in the industrial park. The lowest enclosed floor for new construction must be one (1) foot above the flood elevation.

SURROUNDING LAND USE AND ZONING:

(1) **NORTH:** gymnastics center; C-6 District.

(2) **SOUTH:** McCall Road, Super Wal-Mart, Goodyear Tire Store and other service commercial uses; PUD and C-5 District.

(3) EAST: Hayes Drive, storage units; I-2, Industrial Park District.

(4) WEST: trash service and future service commercial; C-6 District and future Limey Pointe PUD.

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

SUITABILITY OF SITE FOR USES UNDER CURRENT ZONING: The minimum lot size in the C-6 District is 10,000 square feet. The 38,333 square foot tract exceeds the minimum lot size for permitted and conditional uses allowed in the C-6 District and is suitable for heavy commercial development.

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

6. CONFORMANCE WITH COMPREHENSIVE PLAN: The Future Land Use Map for the Northeast Planning Area designates the site as Community Commercial (CC). Applicable policies include:

COMMUNITY COMMERCIAL (CC)

CC 1: Characteristics

Community Commercial Centers provide a mix of retail and commercial services in a concentrated and unified setting that serves the local community and may also provide a limited draw for the surrounding region. These centers are typically anchored by a larger national chain, between 120,000 and 250,000 square feet, which may provide sales of a variety of general merchandise, grocery, apparel, appliances, hardware, lumber, and other household goods. Centers may also be anchored by smaller uses, such as a grocery store, and may include a variety of smaller, complementary uses, such as restaurants, specialty stores (such as books, furniture, computers, audio, office supplies, or clothing stores), professional offices and health services. The concentrated, unified design of a community commercial center allows it to meet a variety of community needs in a “one-stop shop” setting, minimizing the need for multiple vehicle trips to various commercial areas around

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the community. Although some single use highway-oriented commercial activities will continue to occur in some areas, this pattern of development is generally not encouraged.

CC 2: Location

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

CC 3: Size

Typically require a site of between 10 and 30 acres.

CC 4: Unified Site Design

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

CC 5: Architectural Character

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

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

CC 6: Organization of Uses

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

CC 7: Parking Design and Layout

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

CC 8: Circulation and Access

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

The proposed C-5 District is generally in conformance to the Comprehensive Plan. The single-use highway service activity is generally discouraged to reduce multiple vehicle trips. The proposed rezoning site is limited in area and is an example of a single-use site that the Plan also recognizes may occur in the area.

ZONING HISTORY AND LENGTH OF TIME VACANT AS ZONED: Part of the site was annexed in 1968 and the other part in 1969. The site has been vacant for an undetermined period of time.

1968- 1969	E,	Light Industrial District
1969- 1971	I-3,	Light Industrial District
1971- 1979	I-2,	Industrial Park District
1979- 2006	C-6,	Heavy Commercial District

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

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districts to assure compatibility; and to protect property values. The C-5 District is designed to provide for businesses offering accommodations, supplies, or services to motorists, and for certain specialized activities which require access to major streets and highways. The site is along a major street, McCall Road, and in close proximity to Tuttle Creek Boulevard, another major street.

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

RELATIVE GAIN TO THE PUBLIC HEALTH, SAFETY AND WELFARE THAT DENIAL OF THE REQUEST WOULD ACCOMPLISH, COMPARED WITH THE HARDSHIP IMPOSED UPON THE APPLICANT: The site is located in close proximity to the City's public water well fields. The C-5 District allows underground storage of liquid fuel, such as gasoline associated with an automobile service station or convenience store. The rezoning site is within the well field limits, which prohibit underground storage tanks. No other adverse impacts to the public should be expected as a result of the rezoning. Denial of the request may be a hardship upon the applicant. The applicant would like to develop the site with a drive-in restaurant, which the C-6 District prohibits. A restaurant, not including a drive-up window, is a Conditional Use in the C-6 District.

ADEQUACY OF PUBLIC FACILITIES AND SERVICES: Adequate streets, sanitary sewer, and water are available to serve the site. No additional public improvements are needed to serve the site as a part of the proposed C-5 District.

OTHER APPLICABLE FACTORS: None.

STAFF COMMENTS: City Administration recommends approval of the proposed rezoning of an approximate .88 acre tract of land on the northwest corner of Hayes Drive and McCall Road from C-6, Heavy Commercial District, to C-5, Highway Service Commercial District.

ALTERNATIVES:

1. Recommend approval of the proposed rezoning of an approximate .88 acre tract of land on the northwest corner of Hayes Drive and McCall Road from C-6, Heavy Commercial District, to C-5, Highway Service Commercial District, stating the basis for such recommendation.
2. Recommend denial of the proposed rezoning, stating the specific reasons for denial.

3. Table the proposed rezoning to a specific date, for specifically stated reasons.

POSSIBLE MOTION:

The Manhattan Urban Area Planning Board recommends approval of the proposed rezoning an approximate .88 acre tract of land on the northwest corner of Hayes Drive and McCall Road from C-6, Heavy Commercial District, to C-5, Highway Service Commercial District, based on the findings in the Staff Report .

PREPARED BY: Steve Zilkie, AICP, Senior Planner

DATE: September 11, 2006

STAFF REPORT

ON AN APPLICATION TO REZONE PROPERTY

FROM: I-3, Light Industrial District.

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

APPLICANTS: Sinaa Abdulmir and Imad Khamis.

ADDRESS: 2143 Prairie Glen Place, Manhattan, KS 66502

OWNERS: Sinaa Abdulmir and Imad Khamis.

ADDRESS: 2143 Prairie Glen Place, Manhattan, KS 66502

LOCATION: south of Ft. Riley Boulevard, and on the north side of Fair Lane between S. 14th Street and S. 15th Street, generally at 1423 Fair Lane.

Lots 187-189, and the west ½ of Lot 190, Ward 6. In the 1980's, the north 20 feet of the lots was acquired as Permanent Easement for Right-of-Way with the Ft. Riley Boulevard street project.

AREA: approximately .52 acres (22, 651 square feet).

DATE OF PUBLIC NOTICE PUBLICATION: Monday, August 28, 2006

DATE OF PUBLIC HEARING: PLANNING BOARD: Monday, September 18, 2006

CITY COMMISSION: Tuesday, October 3, 2006

EXISTING USE: Vacant light industrial tract of land.

PHYSICAL AND ENVIRONMENTAL CHARACTERISTICS: The undeveloped site is a generally flat grass covered tract of land with several large deciduous trees along Fair Lane. The site is slightly elevated above the Ft. Riley Boulevard, which is to the north. Fair Lane, a concrete alley approximately 15 feet in width, is to the south of the site and is the only access to the tract. No access (curb cut) is allowed onto Ft. Riley Boulevard. The site drains to Fair Lane and to the east. In the 1980's, the north 20 feet of the lots was acquired as Permanent Easement for Right-of-Way with the Ft. Riley Boulevard street project.

SURROUNDING LAND USE AND ZONING:

- (1) **NORTH:** Ft. Riley Boulevard, nonconforming residence, City Parks and Recreation shops; I-3 District.
- (2) **SOUTH:** Fair Lane, nonconforming residence, storage yard, City storm water detention flood basins; I-3 District.
- (3) **EAST:** Storm detention/flood basins (City of Manhattan); I-3 District.
- (4) **WEST:** Telephone substation, nonconforming residence, S. 15th Street, Thomas Sign and museum; I-3 and LM-SC Districts.

GENERAL NEIGHBORHOOD CHARACTER: Generally a light industrial neighborhood consisting of a mix of contractors and nonconforming residential uses, which is separated from areas to the north by Fort Riley Boulevard. Existing uses are accessed from Fair Lane. The immediate neighborhood in the 1400-1500 block of Fair Lane is predominantly nonconforming residential, with light industrial uses to the south, west, and north of Ft. Riley Boulevard. To the east is undeveloped and used for storm water flood basins.

SUITABILITY OF SITE FOR USES UNDER CURRENT ZONING: The site is suitable for the permitted and conditional uses of the I-3 District and is greater in minimum lot size than required by the I-3 District. Minimum lot size is 5,000 square feet and the site is approximately 22,651 square feet in area.

COMPATIBILITY OF PROPOSED DISTRICT WITH NEARBY PROPERTIES AND EXTENT TO WHICH IT MAY HAVE DETRIMENTAL AFFECTS: The LM-SC District allows for a range of permitted uses found in both the C-5, Highway Service Commercial District, and the I-3 District. The area is an primarily I-3 District, except for an existing LM-SC District at the southwest corner of Ft. Riley Boulevard and S. 15th Street. The proposed rezoning is consistent and compatible with the surrounding zoning districts.

CONFORMANCE WITH COMPREHENSIVE PLAN: The Manhattan Urban Area Comprehensive Plan shows the site as Industrial.

Characteristics

This category includes light manufacturing, warehousing and distribution, indoor and screened outdoor storage and other industrial services and operations.

Location

Industrial uses should be located away from population centers or be adequately buffered. Traffic should not pass through residential areas. Access should be to one or more major arterials or highways capable of handling heavy truck traffic. Light industrial uses can typically be located in areas that also contain some highway-oriented commercial uses, and might benefit from close proximity and better access to their local customer.

The proposed rezoning combines light industrial and service commercial uses adjacent to a major street, Ft. Riley Boulevard. There is some highway commercial activity in the area, primarily north of Ft. Riley Boulevard, and at the west end of Fair Lane. An LM-SC District is to the west of the site. Access to the site is not through residential areas.

The proposed rezoning to LM-SC District is generally in conformance with the Manhattan Urban Area Comprehensive Plan.

ZONING HISTORY AND LENGTH OF TIME VACANT AS ZONED: The site is a part of the City's original platted Ward Districts. The site has been undeveloped for an undetermined period of time..

1954-1969	A, First Dwelling House District
1954-1970	B, Second Dwelling House District
1954-1971	E, Light Industrial District
1969-2006	I-3, Light Industrial District

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 Light Manufacturing-Service Commercial District is designed to promote and encourage diverse economic growth through coordinated and efficient use of land and collocation of light industrial and highway service commercial activities. Minimum lot size in the LM-SC District along a limited access arterial street is 20,000 square feet. The site is greater in area than minimum lot size.

RELATIVE GAIN TO THE PUBLIC HEALTH, SAFETY AND WELFARE THAT DENIAL OF THE REQUEST WOULD ACCOMPLISH, COMPARED WITH THE HARDSHIP IMPOSED UPON THE APPLICANT: There appears to be no relative gain to the public that denial would accomplish. It may be a hardship on the owner if the rezoning is denied. The owner indicates a desire to relocate from their current business location at 700 N. 3rd Street, which is in the Manhattan Marketplace, Unit Two, Planned Unit Development. The applicant has indicated a desire to sell vehicles, as well as have a truck rental business. The I-3 District permits vehicle repair and automobile rental, but not truck rental and automobile sales.

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

The site adjoins Ft. Riley Boulevard to the north and access will be from S. 15th Street and S. Manhattan Avenue connections to Fair Lane, since no access is allowed onto Ft. Riley Boulevard from the site. S. Manhattan Avenue and Ft. Riley Boulevard intersection is from a stoplight controlled intersection with left turn lanes off Ft. Riley Boulevard. Currently, there are no dedicated left-turn lanes on Ft. Riley Boulevard at the intersection of Ft. Riley Boulevard and S. 15th Street. However, left turn lanes on Ft. Riley Boulevard at the intersection Ft. Riley Boulevard and S. 15th Street are proposed to be constructed in 2007. The proposed rezoning should not adversely affect the motoring public making left turn movements onto S. 15th Street due to traffic improvements at the intersection, which are scheduled for construction in 2007.

Fair Lane alley is the limited in width and has been used by businesses along its frontage for many years. Traffic volumes may increase as a result of the rezoning, but would not be inconsistent with the permitted traffic generators that I-3 District allows as permitted uses, such as auto rental, car washes, vehicle repair and similar vehicle related uses.

OTHER APPLICABLE FACTORS: None.

STAFF COMMENTS: City Administration recommends approval of the proposed rezoning of 1423 Fair Lane from I-3, Light Industrial District, to LM-SC, Light Manufacturing-Service Commercial District.

ALTERNATIVES:

1. Recommend approval of the proposed rezoning of 1423 Fair Lane from I-3, Light Industrial District, to LM-SC, Light Manufacturing-Service Commercial District, stating the basis for such recommendation.

Attachment No. 5

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 1423 Fair Lane from I-3, Light Industrial District, to LM-SC, Light Manufacturing-Service Commercial District, based on the findings in the Staff Report.

PREPARED BY: Steve Zilkie, AICP, Senior Planner

DATE: September 11, 2006

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