

MINUTES
SPECIAL CITY COMMISSION MEETING
TUESDAY, JANUARY 9, 2007
7:00 P.M.

The Special 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, Youth in Government Representative Shawn Weston, 5 staff, and approximately 12 interested citizens.

PLEDGE OF ALLEGIANCE

Mayor Snead led the Commission in the Pledge of Allegiance.

PUBLIC COMMENTS

Mayor Snead opened the public comments.

Dee R. Ross, 2304 Brockman Street, informed the Commission of recent tax abatements and benefit districts providing entities with extra perks, and stated that the actions of the Commission is forcing people to pay more for goods and services that benefit the developers. He asked the Commission why consumers should be taxed for improvements the developers should be paying for and wanted to know the status of the investigation and the City's gun control ordinance.

Mayor Snead and City Manager Ron Fehr responded to Mr. Ross' questions and provided clarification.

Paula Goldwyn informed the Commission that she addressed the City Commission on September 5, 2006, and that she was here on behalf of her mother, Bernice Enlow, 601 North Juliette Avenue. She voiced concern that she has not received a response from the Mayor and stated that Henton Plumbing has filed a suit against her mother for the current balance of \$2,973.45 for the installation of a new furnace and water heater provided through the Helping Hands Program. She requested the remaining balance due Henton Plumbing be paid with money from the City's General Fund. She went on to provide additional information regarding her request.

PUBLIC COMMENTS (*CONTINUED*)

Mayor Snead responded to questions from Ms. Goldwyn.

Bill Frost, City Attorney, informed the Commission that he could comment on the item, but that it is complicated and it is detailed. He added that the City of Manhattan has very little to do with the issues that are being discussed.

After further discussion between Mayor Snead and Ms. Goldwyn, Mayor Snead informed Ms. Goldwyn that she would be contacted within the next two days to schedule a meeting and to discuss the issue.

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

COMMISSIONER COMMENTS

Mayor Snead recognized Sean Weston, Youth in Government representative. He then commented about his Rutgers Scarlet Knights sweatshirt and cap he was wearing as a result of a friendly competition between himself and Mayor Brian Waller, of Piscataway, New Jersey, as Rutgers defeated K-State in the Texas Bowl.

Commissioner Phillips requested that the Commission be provided with a memo updating them on the outcome of the meeting with Ms. Goldwyn.

CONSENT AGENDA

(* denotes those items discussed)

MINUTES

The Commission approved the minutes of the Regular City Commission Meeting held Tuesday, December 19, 2006.

CLAIMS REGISTER NO. 2575

The Commission approved Claims Register No. 2575, authorizing and approving the payment of claims from December 13, 2006, to December 26, 2006, in the amount of \$3,345,638.42.

LICENSE – RENEWALS

The Commission approved the applications Tree Maintenance license for calendar year 2007. (*See Attachment No. 3*)

CONSENT AGENDA (CONTINUED)

FINAL PLAT – STONE POINTE ADDITION, UNIT TWO

The Commission accepted the easements and rights-of-way, as shown on the Final Plat of Stone Pointe Addition, Unit Two, generally located along the east side of Scenic Drive, northeast of the intersection of Scenic Drive and Powercat Place, and southeast of the intersection of Scenic Drive and Highland Ridge Drive, based on conformance with the Manhattan Urban Area Subdivision Regulations.

ORDINANCE NO. 6600 – FRANCHISE AGREEMENT – KANSAS GAS SERVICE

The Commission approved Ordinance No. 6600 authorizing the City to enter into a franchise agreement with Kansas Gas Service.

ORDINANCE NO. 6601 – REZONE – 615 and 626 SOUTH 10TH STREET

The Commission approved Ordinance No. 6601 rezoning Lots 441-465, Ward 5, generally located at 615 South 11th Street and 626 South 10th Street, 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. 1*).

FIRST READING – EXPAND – NORTH PROJECT AREA TRANSPORTATION DEVELOPMENT DISTRICT

The Commission approved first reading of an ordinance expanding the North Project Area Transportation Development District.

CHANGE ORDER NO. 1-FINAL – WOODLAND HILLS ADDITION, UNIT 5, PH II, AND UNIT 6, PH I – STREET IMPROVEMENTS (ST0523)

The Commission approved Change Order No. 1-Final for Woodland Hills Addition, Unit 5, Ph II, and Unit 6, PH I, Street Improvements (ST0523) resulting in a net increase in the amount of \$4,624.00 (+1.7%) to the contract with Larson Construction Company, Inc., of Manhattan, Kansas.

CHANGE ORDER NO. 1-FINAL – BROOKFIELD ADDITION, UNIT 8 – STREET IMPROVEMENTS (ST0610)

The Commission approved Change Order No. 1-Final for Brookfield Addition, Unit 8, Street and Storm Drainage Improvements (ST0610) resulting in a net decrease in the amount of \$16,095.00 (-2.4%) to the contract with Meadows Construction Co., Inc., of Tonganoxie, Kansas.

CONSENT AGENDA (CONTINUED)

CHANGE ORDER NO. 1-FINAL – ABBOTT ACRES ADDITION – WATER IMPROVEMENTS (WA0604)

The Commission approved Change Order No. 1-Final for Abbott Acres Addition Water Improvements (WA0604) resulting in a net decrease in the amount of \$60.00 (-.6%) to the contract with Walters-Morgan Construction Co., of Manhattan, Kansas.

CHANGE ORDER NO. 1-FINAL – STONE POINTE ADDITION, UNIT 1 – WATER IMPROVEMENTS (WA0608)

The Commission approved Change Order No. 1-Final for Stone Pointe Addition, Unit 1, Water Improvements (WA0608) resulting in a net increase in the amount of \$1,242.20 (+0.5%) to the contract with Walters-Morgan Construction Co., of Manhattan, Kansas.

CHANGE ORDER NO. 1-FINAL – WESTERN HILLS, UNIT 13 – WATER IMPROVEMENTS (WA0603)

The Commission approved Change Order No. 1-Final for Western Hills, Unit 13, Water Improvements (WA0603) resulting in a net decrease in the amount of \$60.00 (-0.1%) to the contract with Walters-Morgan Construction Co., of Manhattan, Kansas.

CHANGE ORDER NO. 1-FINAL – WESTERN HILLS, UNIT 13 – SANITARY SEWER IMPROVEMENTS (SS0603)

The Commission approved Change Order No. 1-Final for Western Hills, Unit 13, Sanitary Sewer Improvements (SS0603) resulting in a net increase in the amount of \$358.00 (+0.4%) to the contract with Walters-Morgan Construction Co., of Manhattan, Kansas.

CHANGE ORDER NO. 1-FINAL – WESTERN HILLS, UNIT 13 – STORM WATER IMPROVEMENTS (SM0601)

The Commission approved Change Order No. 1-Final for Western Hills, Unit 13, Storm Water Improvements (SM0601) resulting in a net decrease in the amount of \$850.00 (-1.9%) to the contract with Walters-Morgan Construction Co., of Manhattan, Kansas.

CONSENT AGENDA (CONTINUED)

* **RESOLUTION NO. 010907-A – KDOT AWARD CONTRACT – SETH CHILD/SOUTHWIND ROAD/AMHERST AVENUE INTERSECTIONS IMPROVEMENTS (ST0413)**

David Darling, 131 E.J. Frick, informed the Commission that he was delighted to see the turning lane improvements at Seth Child and Amherst Avenue on the consent agenda and asked the Commission to approve the item.

The Commission authorized the Mayor and City Clerk to execute the Construction Engineering Agreements with KDOT; authorized the Mayor and City Clerk to approve the award of a contract for improvements at the intersection of Southwind Road and Amherst Avenue along Seth Child Road (K-113); and approved Resolution No. 010907-A authorizing construction and financing for the Southwind Road and Amherst Avenue Intersection Improvements (ST0413).

RELOCATION OF UTILITIES AGREEMENTS – K18/WILDCAT CREEK ROAD INTERSECTION IMPROVEMENTS (ST0303)

The Commission authorized the Mayor and City Clerk to execute the agreements with Westar Energy, AT&T, and Kansas Gas Service for relocation of utilities associated with the intersection improvements at Fort Riley Boulevard and Wildcat Creek Road (ST0303).

LEASE AGREEMENT – HERTZ RENT-A-CAR

The Commission authorized the Mayor and City Clerk to execute the Airport Lease Agreement with Hertz Rent-A-Car.

* **OPERATING AGREEMENT – CONCESSION STANDS**

Curt Loupe, Director of Parks and Recreation, and Ron Fehr, City Manager, answered questions from the Commission.

Item was tabled at the request of Commissioner Klimek.

* **2007 SSAB CONTRACT – SALVATION ARMY**

Geri Simon, Chair, Social Services Advisory Board, provided additional clarification on the item and answered questions from the Commission.

The Commission approved the proposed contract in the amount of \$40,000.00 for the 2007 City Budget year and authorized the Mayor and City Clerk to execute said annual contract with the Salvation Army.

CONSENT AGENDA (CONTINUED)

BOARD APPOINTMENTS

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

Corporate Technology Park Architectural Review Committee

Re-appointment of Stacy Kohlmeier, Auth-Florence, 5935 Corporate Drive, to a three-year term. Ms. Kohlmeier's term begins immediately and will expire on August 15, 2009.

Downtown Business Improvement District

Appointment of Evan Grier, 418 Poyntz Avenue, to fill an unexpired term for Mark Knackendoffel. Mr. Grier's term begins immediately and will expire on December 31, 2007.

After discussion, Commissioner Phillips moved to approve the consent agenda, as presented, with Item L: Concessions Operating Agreement, being tabled. Commissioner Hatesohl seconded the motion. On a roll call vote, motion carried 5-0, with the exception of Item E: Kansas Gas Service Franchise Agreement, which carried 4-1, with Commissioner Klimek voting against the item.

GENERAL AGENDA

FIRST READING - AMEND THE FINAL DEVELOPMENT PLAN - K-MART COMMERCIAL PLANNED UNIT DEVELOPMENT

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

Joe Knopp, representing Chris Curtin, owner of Town East Center, informed the Commission that the two parties have reached an agreement for a travel easement. He provided documentation to the signing of the agreement and their position to withdraw their earlier submitted protest petition.

Philip Bundy, Principle, East Manhattan Developers, L.C., informed the Commission that with the agreement, everything can proceed forward.

Brent Bowman, Bowman Bowman and Novick, provided additional information about the shopping center and proposed development.

GENERAL AGENDA (CONTINUED)

FIRST READING - AMEND THE FINAL DEVELOPMENT PLAN - K-MART COMMERCIAL PLANNED UNIT DEVELOPMENT (CONTINUED)

Eric Cattell, Assistant Director for Planning, answered additional questions from the Commission.

After discussion, Commissioner Hatesohl moved to override the Manhattan Urban Area Planning Board's recommendation and approve first reading of an ordinance amending the Final Development Plan of the K-Mart Commercial Planned Unit Development and Ordinance Nos. 4635 and 6359, as proposed, based on the findings in the Staff Report (*See Attachment No. 2*), with the eleven (11) conditions of approval, as listed in the Staff Report, as recommended by the Manhattan Urban Area Planning Board, and with the new Condition No. 12, as recommended by City Administration. Commissioner Morris-Hardeman seconded the motion. On a roll call vote, motion carried 5-0.

OFFICE OF ECONOMIC ADJUSTMENT (OEA) GRANT AMENDMENT - AIR SERVICE DEVELOPMENT AGREEMENT - MEAD & HUNT, INC.

Peter Van Kuren, Airport Director, presented the item. He then answered questions from the Commission regarding the scope of the project and consultant selected.

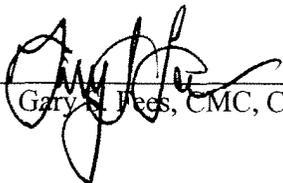
Dee R. Ross, 2304 Brockman Street, voiced concern over the number of studies that have been completed over the past 25 years.

Ron Fehr, City Manager, and Peter Van Kuren, Airport Director, provided additional clarification on the item.

After discussion, Commissioner Hatesohl moved to authorize the City Manager to sign the Grant Agreement for an amendment of Grant No. 0606-06-01 with the Office of Economic Adjustment, and authorize the Mayor and City Clerk to execute the Air Service Development Agreement with Mead & Hunt, Inc., of Eugene, Oregon. Commissioner Phillips seconded the motion. On a roll call vote, motion carried 5-0.

ADJOURNMENT

At 8:17 p.m. the Commission adjourned.



Gary S. Fees, CMC, City Clerk

STAFF REPORT

ON AN APPLICATION TO REZONE PROPERTY

FROM: I-3, Light Industrial District

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

APPLICANT/OWNER: HHW, LLC-Greg Wilson

ADDRESS: 625 S. 10th Street, Manhattan KS 66502

LOCATION: south of Ft. Riley Boulevard, west of S. 10th Street, east of Griffith Field and S. 11th Street, and north of the Union Pacific Railroad, generally 615 S. 11th Street and 626 S. 10th Street (Lots 441-465, Ward 5).

AREA: approximately 2.7 acres.

DATE OF PUBLIC NOTICE PUBLICATION: Monday, November 13, 2006

DATE OF PUBLIC HEARING: PLANNING BOARD: Monday, December 4, 2006
CITY COMMISSION: Tuesday, December 19, 2006

EXISTING USE: Moving and storage (Covan), outdoor storage (Howie's Recycling), and warehouse distribution (Fastenal).

PHYSICAL AND ENVIRONMENTAL CHARACTERISTICS: a flat fully developed industrial site with existing buildings, fencing and outdoor storage and parking. An east-west alley was vacated and a utility easement retained through the approximate center of the site. No portion of the site is in a 100 Year Flood Plain, but is in the 500 Year Flood Plain. Drainage is to public streets.

SURROUNDING LAND USE AND ZONING:

- (1) **NORTH:** Ft. Riley Boulevard, gravel parking single-family and two-family dwellings; R-2, Two Family Residential District, with TNO, Traditional Neighborhood Overlay District.
- (2) **SOUTH:** Railroad, city park, residential; R-2 District and Planned Unit Development.

Attachment No. 1

(3) EAST: S. 10th Street, recycling, vacant industrial/commercial lot; I-3 District and LM-SC District.

(4) WEST: S. 11th Street, city park; R-2 District.

GENERAL NEIGHBORHOOD CHARACTER: The neighborhood extending east/west from the site, except for Griffith Park and along the south side of Ft. Riley Boulevard, consists primarily of industrial/commercial uses, which are separated from residential areas, north and south of the site, by a major street and railroad line. Areas generally to the north of the site are a mix of public parking, residential and other public facilities. Areas to the south are public park and residential. The site has been zoned for industrial purposes since 1926 and its character is part of the neighborhood.

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 2.7 acres, or 117,612 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 neighboring area to the east is LM-SC District. To the southeast is I-3 District, Howie's Recycling. The site is bounded by a major street to the north and railroad to the south, which separates the site from residential districts. The site is accessed directly from Ft. Riley Boulevard and S. 10th Street, which connects to Ft. Riley Boulevard at a controlled intersection. The proposed rezoning is compatible with the industrial/commercial neighborhood.

CONFORMANCE WITH COMPREHENSIVE PLAN: The Manhattan Urban Area Comprehensive Plan shows the site as Community Commercial. Policy statements include:

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,

Attachment No. 1

unified design of a community commercial center allows it to meet a variety of community needs in a “one-stop shop” setting, minimizing the need for multiple vehicle trips to various commercial areas around the community. Although some single use highway-oriented commercial activities will continue to occur in some areas, this pattern of development is generally not encouraged.

CC 2: Location: Community Commercial Centers should be located at the intersection of one or more major arterial streets. They may be located adjacent to urban residential neighborhoods and may occur along major highway corridors as existing uses become obsolete and are phased out and redeveloped over time. Large footprint retail buildings (often known as “big-box” stores) shall only be permitted in areas of the City where adequate access and services can be provided.

CC 3: Size: Typically require a site of between 10 and 30 acres.

CC 4: Unified Site Design: A unified site layout and design character (buildings, landscaping, signage, pedestrian and vehicular circulation) shall be required and established for the center to guide current and future phases of development. Building and site design should be used to create visual interest and establish a more pedestrian-oriented scale for the center and between out lots.

CC 5: Architectural Character: Community Commercial Centers shall be required to meet a basic level of architectural detailing, compatibility of scale with surrounding areas, pedestrian and bicycle access, and mitigation of negative visual impacts such as large building walls, parking areas, and service and loading areas. While these requirements apply to all community commercial development, they are particularly important to consider for larger footprint retail buildings, or “big-box” stores. A basic level of architectural detailing shall include, but not be limited to, the following: Façade and exterior wall plane projections or recesses; • Arcades, display windows, entry areas, awnings, or other features along facades facing public streets; • Building facades with a variety of detail features (materials, colors, and patterns); and • High quality building materials.

CC 6: Organization of Uses: Community commercial services should be concentrated and contained within planned activity centers, or nodes, throughout the community. Within each activity center or node, complementary uses should be clustered within walking distance of each other to facilitate efficient, “one-stop shopping”, and minimize the need to drive between multiple areas of the center. Large footprint retail buildings, or “big-box” stores should be incorporated as part of an activity center or node along with complementary uses. Isolated single store developments are strongly discouraged.

Attachment No. 1

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 rezoning combines light industrial and service commercial uses adjacent to a major street, Ft. Riley Boulevard. Access to the site is not through residential areas. LM-SC District is to the west and east of the site. The Comprehensive Plan recognizes that “Although some single use highway-oriented commercial activities will continue to occur in some areas, this pattern of development is generally not encouraged.” The proposed rezoning to LM-SC District is generally in conformance with the Manhattan Urban Area Comprehensive Plan, due to the existing LM-SC District along Ft. Riley Boulevard.

ZONING HISTORY AND LENGTH OF TIME VACANT AS ZONED: The site is a part of the City’s original platted Ward Districts. The site is not vacant.

1925-1965	F, Heavy Industrial District
1965-1969	F, Heavy 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 site can be accessed from existing public streets.

Attachment No. 1

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

OTHER APPLICABLE FACTORS: None.

STAFF COMMENTS: City Administration recommends approval of the proposed rezoning of Lots 441-465, Ward 5, generally located at 615 S. 11th Street and 626 S. 10th Street, from I-3, Light Industrial District, to LM-SC, Light Manufacturing-Service Commercial District.

ALTERNATIVES:

1. Recommend approval of the proposed rezoning of Lots 441-465, Ward 5, generally located at 615 S. 11th Street and 626 S. 10th Street, from I-3, Light Industrial District, to LM-SC, Light Manufacturing-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 Lots 441-465, Ward 5, generally located at 615 S. 11th Street and 626 S. 10th Street, 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: November 29, 2006

STAFF REPORT

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

BACKGROUND

APPLICANT: East Manhattan Developers, L.C. – Steven R. Struebing, Managing Member

ADDRESS: 819 North Washington, Junction City, KS 66441

OWNER: Same

ADDRESS: Same

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

AREA: 9.37-acres; Lot 1, K-Mart Addition.

DATE OF PUBLIC NOTICE PUBLICATION: Monday, November 27, 2006

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

CITY COMMISSION: Tuesday, January 9, 2007

DESCRIPTION OF PROPOSED AMENDMENT:

- Modify the Permitted Uses of the PUD (Ordinance No. 4635 attached) to allow the Permitted Uses of the C-2, Neighborhood Shopping District, to include: Fabric stores, Financial services, and Office supplies; and to exclude from the proposed list of C-2 District Permitted Uses: Air conditioning, heating and plumbing sales, Churches, chapels, temples and synagogues, and Convenience stores.
- To allow temporary and seasonal outdoor display and storage of merchandise and goods to be permitted between March 1 and October 1 of the calendar year in areas identified on the plans;
- To allow a reduction of off-street parking from the approved 555 to 538 parking spaces, to allow expanded landscape islands and new plantings in existing landscape islands, and a proposed change to landscape irrigation; and,

Attachment No. 2

- A modification of the vacant grocery store building's floor plan and building façade, which includes a canopy, entrances, material changes, and signs.
- In addition, the applicant forwarded the owner of Town East shopping center a proposed private reciprocal travel easement (attached).

Existing Building

The vacant grocery store building's floor plan, facade and signs will be modified. Interior modifications include two to three tenant spaces and entrances. Gross floor area for the vacant building is 37,153 square feet (total sales area of 28,143 square feet) to be divided into a 22,633 square foot tenant space (16,325 square foot sales area) and a 14,520 square foot tenant space (11,818 square feet in area). The 14,520 square foot area may be further divided into two tenant spaces.

Exterior changes include a new terra cotta standing seam metal roof canopy, brick canopy support columns, new aluminum store front, painting existing ribbed entrance façade to match brick, tan EFIS façade, and new brown fascia panels on the canopy for proposed signs. Signs include proposed fascia signs are 8 square feet in area, of 8 inch tall white pin mounted letters, and 90 square foot backlit box sign over the larger, 22,633 square foot, tenant space.

City Administration suggests that exempt signs, such as address numerals and directional signs, be allowed and that temporary sales aids and portable signs be prohibited.

Outdoor Seasonal and Other Storage

As shown on the proposed site plan, outdoor storage will be along the proposed remodeled facade and along the K-Mart façade. Seasonal display is also proposed in the off-street parking lot for K-Mart and along the Sarber Lane frontage of K-Mart.

A proposed seasonal display area is shown in the parking lot to the south of K-Mart and is approximately 16,400 square feet in area. A second seasonal display area is proposed to the west of the garden center and is approximately 4,600 square feet in area.

The applicant has not indicated what temporary and seasonal merchandise would consist of or what other merchandise and goods would be displayed.

For guidance, Article V, Accessory Uses, Temporary Uses, Home Occupations, Part 2, Temporary Uses Section 5-201 (A-F) regulate temporary merchandise and goods in zoning districts, unless restricted to particular zoning districts (the K-Mart PUD does not indicate

Attachment No. 2

seasonal sales or promotional activities are a permitted accessory use). Seasonal display of merchandise and goods applicable could include: Christmas tree sales, seasonal sales of live planting stock, landscaping materials, and firewood; other promotional activities of retail merchants involving the display of goods and merchandise; and, fireworks stands. Display limitations include: Christmas tree sales not to exceed 60 days, live planting stock, landscaping materials, and firewood not to exceed a total of ten (10) weeks in any six-month period; promotional sales, a total of two weeks in any three-month period; and fireworks stands, which are regulated by Municipal Code.

Common seasonal sales include merchandise and goods such as, but not limited to, live landscape stock and related materials consisting of lawn chairs/furniture, overstock palletized goods and palletized rock/dirt etc. A typical period for display, such as the current Super Wal-Mart display is from March 1st to Labor Day. Promotional sidewalk sales events sales are limited to a one (1) week period during the weeks of Memorial Day, July 4th, and Labor Day.

Off-Street parking and Landscaping

The existing PUD is required to have 555 parking spaces, a ratio of 5.20 parking spaces per 1,000 square of gross floor area. Five hundred and thirty eight (538) parking spaces exist. In part, the reduction is due accessible parking added after approval in 1990. The proposed 538 parking spaces results in a proposed ratio of 5.17 parking spaces per 1,000 square feet of net retail floor space. The proposed seasonal display area for K-Mart reduces the total number of off-street parking spaces by 56 parking spaces for that portion of the calendar year from March 1 to October 1, or 482 parking spaces, as well as 5 spaces lost for expanded new landscape islands south of the remodeled building, resulting in a ratio of 4.63, for at least.

Expanded landscape islands and existing islands south of the remodeled building will be landscaped with new ground cover shrubs. A note on the plan indicates the owner will follow a regular schedule of watering of a method and rate to maintain landscaping in lieu of underground irrigation. The 1990 PUD landscape plan indicated underground irrigation was required and was installed. Repair or replacement of underground irrigation will ensure adequate maintenance of landscaping.

**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 Permitted Uses of the K-Mart PUD are discount department stores, garden center, auto service center and a grocery store. The current major tenant is K-Mart and its garden center. The auto center building and grocery store building are vacant.

The applicant indicates, “The intent and purpose of the PUD as originally approved was for a major retail shopping district. All of the changes to the permitted uses which are requested are consistent with the original intended use of the property, and are in fact nearly identical to the permitted uses under the City’s C-2 Neighborhood Shopping District Zone.”

Seasonal display is an accessory use in the existing PUD. The existing Garden Center allows permanent outdoor display in an area enclosed by chain link fence. Seasonal display of landscaping materials occur annually in the parking lot south of K-Mart and along the front of the building. In the past, seasonal outdoor storage of landscaping materials also occurred to the west of the Garden Center. Seasonal display of landscaping materials on the sidewalk in front of K-Mart is common occurrence. The proposed Amendment establishes clear areas for seasonal and temporary storage.

Changes to the off-street parking reflect existing and temporary conditions. Building façade changes to the vacant grocery store building are in response to previous comments by the Manhattan Urban Area Planning Board during a public hearing conducted on October 16, 2006 to consider a similar Amendment, which was withdrawn by the applicant.

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 that, “ Only two uses are specified as permitted under the approved PUD: discount department stores and grocery stores. The grocery supermarket space as reflected on the Final Development Plan is currently vacant. Because of the dramatic change and consolidation in the grocery supermarket business and the addition in the immediate vicinity of very large supermarkets (Dillons and Wal-Mart Supercenter), it is highly unlikely that another grocery supermarket operator will locate in this space, and the space will likely remain vacant without a change in permitted uses.”

WHETHER THE PROPOSED AMENDMENT WILL RESULT IN A RELATIVE GAIN TO THE PUBLIC HEALTH, SAFETY, CONVENIENCE OR GENERAL WELFARE, AND IS NOT GRANTED SOLELY TO CONFER A SPECIAL BENEFIT UPON ANY PERSON: No specific gain to the public is found; however, no public improvements or easements are adversely affected. The proposed amendment will not be granted as a special benefit to any one person, but will benefit the public as a whole by allowing more shopping opportunities.

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

1. LANDSCAPING: Landscape islands will be expanded with updated juniper ground cover in islands to the south of the current vacant grocery store building. Underground irrigation was added in 1990 and should be used to ensure landscaping is maintained. The property owner should be responsible for maintenance of landscaping south of the vacant grocery store building.

2. SCREENING: The proposed storage areas are similar to outdoor storage associated with other large retailers, such as Home Depot and the Super Wal-Mart, both of which have outdoor storage adjacent to the building in areas that are screened in a similar manner as proposed with the Amendment. Wal-Mart also allows seasonal display in the parking lot. In addition, the outdoor garden area adjacent to the west end of K-Mart has been a permanent outdoor storage area since at least 1990. Other large sites such as Wal-Mart and Home Depot have outdoor storage for seasonal and other merchandise.

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

4. CIRCULATION:

Access

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

Access to the PUD is also from Town East shopping center to the east of the K-Mart PUD, since the parking lots adjoin one another. The applicant forwarded the owner of Town East shopping center a proposed private reciprocal travel easement.

Off-Street Parking

The proposed number of off-street parking spaces is reduced by 56 spaces during the parking lot seasonal display for K-Mart. The reduction of parking spaces is temporary in nature, typically between late March to Labor Day. As stock is reduced, the display area commonly is reduced in area with more parking spaces becoming available. Adequate parking should be available.

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

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

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

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

SURROUNDING LAND USE AND ZONING:

(1) **NORTH:** manufacturing and automobile service commercial; I-2, Industrial Park District and C-5, Highway Service Commercial District.

(2) **SOUTH:** US 24 Highway, railroad: I-3, Light Industrial District.

(3) **EAST:** Town East retail shopping center, undeveloped highway service commercial lot: C-2, Neighborhood Shopping District and C-5 District.

Attachment No. 2

(4) WEST: Sarber Lane, restaurant, grocery and furniture stores, auto repair; PUD and C-5 District.

GENERAL NEIGHBORHOOD CHARACTER: See above.

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

COMPATIBILITY OF PROPOSED DISTRICT WITH NEARBY PROPERTIES AND EXTENT TO WHICH IT MAY HAVE DETRIMENTAL AFFECTS: The proposed Amendment should not adversely impact surrounding properties. The adjoining property to the east is Town East shopping center, which is zoned C-2, Neighborhood Shopping District, and undeveloped C-5, Highway Service Commercial District. The shopping center consists of an "L" shaped building abutting the eastern wall of the vacant grocery building and a vacant C-5 lot, in the southwestern corner of the Town East shopping center. To the south are East Poyntz Avenue right-of-way and railroad tracks. To the north is an industrial park. To the west is Sarber Lane right-of-way, a restaurant, newly constructed and existing furniture stores, grocery store and auto service related services. The proposed Amendment adds all of the Permitted Uses of the C-2, Neighborhood Shopping District, which is generally consistent with the commercial nature of the surrounding neighborhood in which neighborhood shopping and highway service uses are allowed. Display of seasonal and other merchandise and goods is an accessory use of the existing K-Mart PUD.

Seasonal outdoor storage is consistent with activities on surrounding neighborhood properties such as Dillons and the Super Wal-Mart PUD.

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

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

ZONING HISTORY AND LENGTH OF TIME VACANT AS ZONED:

- 1969: Annexed and zoned C-5, Service Commercial District, and I-2, Industrial Park District.
- 1973: Rezoned to Planned Unit Development for K-Mart, auto service and outdoor garden and food store.

Attachment No. 2

- 1985: Amendment to add floor space to Food-4-Less building.
- 1987: Amendment to expand outdoor K-Mart garden center.
- 1990: Rezoned to a new Commercial Planned Unit Development in order to expand the existing K-Mart, alter landscaping, and to allow an automobile service center.
- 1997: Amend signage for auto service center.
- 2003: Amend signage and landscaping plans.
- 2006: MUAPB conducts public hearing on October 16, 2006, and recommends denial of an Amendment to the K-Mart PUD. Applicant withdraws application.

CONSISTENCY WITH INTENT AND PURPOSE OF THE ZONING ORDINANCE: The intent and purpose of the Zoning Regulations is to protect the public health, safety, and general welfare; regulate the use of land and buildings within zoning districts to assure compatibility; and to protect property values. The PUD Regulations are intended to provide a maximum choice of living environments by allowing a variety of housing and building types; a more efficient land use than is generally achieved through conventional development; a development pattern that is in harmony with land use density, transportation facilities and community facilities; and a development plan which addresses specific needs and unique conditions of the site which may require changes in bulk regulations or layout.

The proposed Amendment is consistent with the intent and purposes of the Zoning Regulations, and the intent of the PUD Regulations.

RELATIVE GAIN TO THE PUBLIC HEALTH, SAFETY AND WELFARE THAT DENIAL OF THE REQUEST WOULD ACCOMPLISH, COMPARED WITH THE HARDSHIP IMPOSED UPON THE APPLICANT: There appears to be no relative gain to the public, which denial would accomplish. No adverse impacts to the public are expected. There may be a hardship to the applicant if the amendment is denied.

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

OTHER APPLICABLE FACTORS: None.

STAFF COMMENTS:

City Administration recommends approval of the proposed Amendment of the K-Mart Planned Unit Development with the following conditions of approval:

Attachment No. 2

1. Permitted Uses shall include: all of the Permitted Uses of the C-2, Neighborhood Shopping District to include: Fabric stores, Financial services, and Office supplies; and exclude from the proposed list of C-2 District Permitted Uses: Air conditioning, heating and plumbing sales, Churches, chapels, temples and synagogues, and Convenience stores.
2. Building façade and signs shall be provided, as proposed.
3. Exempt signage shall be permitted as 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. Temporary sales aids and portable signs, as described in Article VI, Signs, of the Manhattan Zoning Regulations, shall be prohibited.
4. Seasonal outdoor display, storage and sales shall be limited to the parking lot in front of K-Mart, to the west of the K-Mart Garden Center, and along the front of the buildings, as shown on the application documents.
5. Seasonal sales shall be limited to a period from March 1st to Labor Day weekend of each year.
6. Seasonal sales shall include merchandise and goods such as, but not limited to, live landscape stock and related materials consisting of lawn chairs/furniture, overstock palletized goods and palletized rock/dirt and similar merchandise and goods.
7. Sidewalk sales shall be limited to a one (1) week period during the weeks of Memorial Day, July 4th, and Labor Day.
8. Landscaping shall be maintained in good condition by the property owner.
9. The underground irrigation system shall be used to irrigate landscaping.
10. Landscaping shall be provided consistent with approved landscaping plans.
11. A Landscaping Performance Agreement between the City and the property owner shall be entered into, prior to issuance of a building permit.

ALTERNATIVES:

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

Attachment No. 2

POSSIBLE MOTION:

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

PREPARED BY: Steve Zilkie, AICP, Senior Planner

DATE: December 12, 2006
06031

License renewals to be included in the Legislative Meeting on January 9, 2007.

TREE MAINTENANCE

Asplundh Tree Expert, Co.
Tree Design
Urban Woods Tree Service

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255 Ridge Dr.
732 Dogwood Ln., Blue Rapids, KS