

CITY COMMISSION AGENDA MEMO
May 29, 2008

FROM: Steve Zilkie, AICP, Senior Planner

MEETING: June 3, 2008

SUBJECT: First Reading of an Ordinance Rezoning Lot 87, Ward 2, and Amending the Final Development Plan of the Walgreen's No. 1, Commercial Planned Unit Development and Ordinance No. 6203

PRESENTER: Eric Cattell, AICP, Assistant Director for Planning

BACKGROUND

This is the first reading of an ordinance rezoning Lot 87, Ward 2, to be added to the Walgreen's No. 1 Commercial Planned Unit Development (PUD), and amending the Final Development Plan of the Walgreen's No. 1 PUD and Ordinance No. 6203. The PUD and Lot 87 are generally located at the Walgreen's Drug Store south of Bluemont Avenue, west of N. 3rd Street, east of N. 4th Street, and north of Moro Street. The applicant is Dial Manhattan LLC represented by Bob Welstead, acting as Agent for Macomb Mall Holding LLC, Schostak Brothers and Co.

The application consists of the following components:

1. **Rezoning** Lot 87, Ward 2, from C-5, Highway Service Commercial District, to PUD, Commercial Planned Unit Development District.
2. **Amending** the approved Final Development Plan of the Walgreen's No. 1 PUD to do the following: reduce the approved number of off-street parking spaces from 91 to 77; relocate the right-in/right-out along the south side of Bluemont Avenue approximately 38 feet to the east; modify the landscaping plan; and, add Lot 87 to the Walgreen's PUD by rezoning it from C-5, Highway Service Commercial District to PUD. Future changes to pedestrian access in the northwestern corner of the site will slightly modify the sidewalk location to accommodate the round-about at N. 4th Street and Bluemont Avenue. The requested rezoning and amendment are a result of property sales and the need for the two owners, (Dial Manhattan LLC, and WG-7060 KS, LLC, a Delaware limited liability company), to facilitate the transfers of ownership directly related to the previous rezoning of the Manhattan Marketplace, Unit Two, PUD, as approved in 2006.

The applicant also submitted a concurrent application to replat Lot 1, Gateway Subdivision, No. 1, to be known as the Final Plat of Gateway Subdivision, No. 2 (*attached*). The Gateway Subdivision, No. 2 will create proposed Lots 1-5, to accommodate and simplify transfers of ownership between the two owners, made necessary by the previously approved rezoning for Manhattan Marketplace, Unit Two, PUD and the current proposed amendment of the Walgreen's PUD and rezoning of Lot 87.

Proposed Lots 1, 2 and 3, Gateway Subdivision, No. 2 will form the boundary of the amended Walgreen's PUD. Proposed Lot 1 currently encompasses the majority of the Walgreen's site including the building. Proposed Lot 2, to the east, consists of Lot 87 (off-street parking and a portion of the right-in/right-out), and a portion of the city alley which will be vacated. Proposed Lot 3 is part of the existing Walgreen's PUD and immediately south of Lot 2 and currently consists of off-street parking and drive lanes. Proposed Lots 4 and 5 will become part of a future Final Development Plan and a replat associated with a future phase of Manhattan Marketplace, Unit Two, PUD. Lots 4 and 5 are currently off-street parking to the southeast of Walgreen's, generally directly east of the drive-in pharmacy.

The Manhattan Urban Area Planning Board approved the Final Plat of Gateway Subdivision, No. 2, conditioned upon approval of the currently requested amendment and rezoning. Acceptance of easements and rights-of way as shown on the Final Plat of Gateway Subdivision, No. 2 will be considered by the City Commission on the same date as second reading of the ordinance to rezone Lot 87 and amend the existing Walgreen's PUD.

REZONING AND AMENDMENT

Neighborhood Character: The neighborhood is characterized by a mixture of residential and commercial uses along the Bluemont Avenue and 4th Street corridors. Residential uses consisting of single-family and two-family dwellings are to the west and northwest of Walgreen's and Lot 87. Various commercial activities, including Manhattan Marketplace PUD and highway commercial businesses are to the south, east, and northeast.

Compatibility: The proposed rezoning of Lot 87 along Bluemont Avenue and the amendment of the Walgreen's PUD are consistent with the existing commercial nature of the properties. Nearby properties should not be detrimentally affected, as the Walgreen's PUD and Lot 87 are existing commercial activities along a major arterial street corridor.

Comprehensive Plan: The Manhattan Urban Area Comprehensive Plan designates the Walgreen's site and Lot 87, Ward 2, as Central Core District (CCD), which is a special purpose designation for the Downtown Core. The amendment and rezoning sites are also designated as a primary redevelopment area for expansion of the Central Business District, in Downtown Tomorrow – A Redevelopment Plan for Downtown Manhattan, Kansas, adopted in May 2000 as a part of the Comprehensive Plan. The proposed

amendment of the Walgreen's PUD and rezoning of Lot 87, Ward 2, conform to the Comprehensive Plan and Downtown Tomorrow Plan.

PUD AMENDMENT

When amending an existing PUD, the following three matters (standards) are to be considered by the Planning Board and City Commission, along with the other rezoning standards (*see attached Staff Report for full analysis of all applicable standards*):

Whether the proposed amendment is consistent with the intent and purpose of the approve PUD, and will promote the efficient development and preservation of the entire PUD: The proposed amendment is consistent with the intent of the approved PUD, a single commercial use for a Walgreen's drug store and drive-thru pharmacy with off-street parking, landscaping and access points off public streets. The amendment adds a 7,500 square foot lot (Lot 87) to the Walgreen's PUD in order to relocate the right-in/right-out off Bluemont Avenue, while maintaining adequate off-street parking and retaining reconfigured landscaping. The amendment promotes the efficient development and preservation of the approved Walgreen's PUD by assuring that adequate access and off-street parking are provided consistent with the PUD. The amendment also accomplishes transfers of ownership between the two property owners, related to the rezoning of Manhattan Marketplace, Unit Two, PUD.

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 eastern portion of the PUD (proposed Lots 4 and 5), consisting of an off-street parking lot shared by the former Long John Silvers restaurant and Walgreen's, is owned by WG-7060 KS, LLC, and will be transferred to Dial Realty Corp. Lots 4 and 5 were rezoned to Manhattan Marketplace, Unit Two, PUD, in 2006. In addition, proposed Lots 2 (existing Lot 87, Ward 2) and 3, which are owned by Dial, will be transferred to Walgreen's to establish the revised Walgreen's PUD boundary and provide off-street parking.

Whether the proposed amendment will result in a relative gain to the public health, safety, convenience or general welfare, and is not granted solely to confer a special benefit upon any person: The proposed PUD amendment and rezoning of Lot 87, Ward 2, will facilitate and complete transfer of properties between the current owner of the Walgreen's properties and Dial. The amendment and rezoning will facilitate the relocation of the right-in/right-out off Bluemont Avenue and create a safer access aisle off Bluemont Avenue within the Walgreen's site. Currently, cut-through traffic from Bluemont Avenue, avoiding the traffic light at N. 3rd Street and Bluemont Avenue, enters the right-in and heads south through the Walgreen's parking lot, which poses a safety hazard for on-site pedestrians and customers exiting from the drive-thru pharmacy. The relocated access aisle moves the driving lane and right-in/right-out farther away from the building and provides improved and safer vision for drivers exiting the pharmacy drive-thru and safer on-site pedestrian circulation.

For the full analysis of the proposed amendment and rezoning, see the attached Staff Report on the PUD amendment and rezoning.

DISCUSSION

On May 19, 2008, the Manhattan Urban Area Planning Board held the public hearing and considered the proposed rezoning of Lot 87 and PUD amendment. Bob Welstead, Dial Manhattan LLC, explained the need for the changes. There was no other public input. (*See draft Minutes of the May 19, 2008, meeting*).

Following discussion, the Planning Board, on a vote of 5-0, recommended approval of the proposed amendment of the Final Development Plan of Walgreen's No. 1 Commercial Planned Unit Development and Ordinance No. 6203; and, the rezoning of Lot 87, Ward 2, from C-5, Highway Service Commercial District, to PUD, Commercial Planned Unit Development District, based on the findings in the Staff Report, with the following three conditions recommended by City Administration:

1. Landscaping and irrigation shall be provided pursuant to a Landscaping Performance Agreement between the City and the owner, which shall be entered into prior to approval of the plans for the right in/right out along Bluemont Avenue.
2. All landscaping and irrigation shall be maintained in good condition.
3. The Final Development Plan for Lot 1, Lot 2, and Lot 3 shall be subject to the conditions of approval of Ordinance No. 6203.

FINANCING

Not applicable.

ALTERNATIVES

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

1. Approve first reading of an ordinance rezoning Lot 87, Ward 2, to PUD as proposed, and amending the Final Development Plan of the Walgreen's No. 1 Commercial Planned Unit Development, and Ordinance No. 6203, based on the findings in the Staff Report, with the three (3) conditions of approval, as recommended by the Manhattan Urban Area Planning Board.
2. Override the Manhattan Urban Area Planning Board's recommendation by a two-thirds majority vote of the membership of the City Commission and deny first reading of an ordinance rezoning Lot 87 and amending the PUD, based on specifically stated reasons.

(Note: To override the Planning Board's recommendation a minimum of 4 votes are necessary.)

3. Override the Manhattan Urban Area Planning Board's recommendation by a two-thirds majority vote of the membership of the City Commission and modify the proposed amendment and/or the conditions of approval, to meet the needs as perceived by the City Commission.
4. Return the recommendation of the Manhattan Urban Area Planning Board for further consideration, together with a statement specifying the basis for the City Commission's failure to approve or disapprove the rezoning and amendment, and provide further direction to the Planning Board.
5. Table first reading of the proposed rezoning and amendment, for specifically stated reasons, and provide further direction to City Administration.

RECOMMENDATION

City Administration recommends that the City Commission approve first reading of an ordinance rezoning Lot 87, Ward 2, from C-5, Highway Service Commercial District, to PUD, Commercial Planned Unit Development District, and amending the Final Development Plan of the Walgreen's No. 1 Commercial Planned Unit Development and Ordinance No. 6203, as proposed, based on the findings in the Staff Report, with the three (3) conditions of approval, as recommended by the Manhattan Urban Area Planning Board.

POSSIBLE MOTION

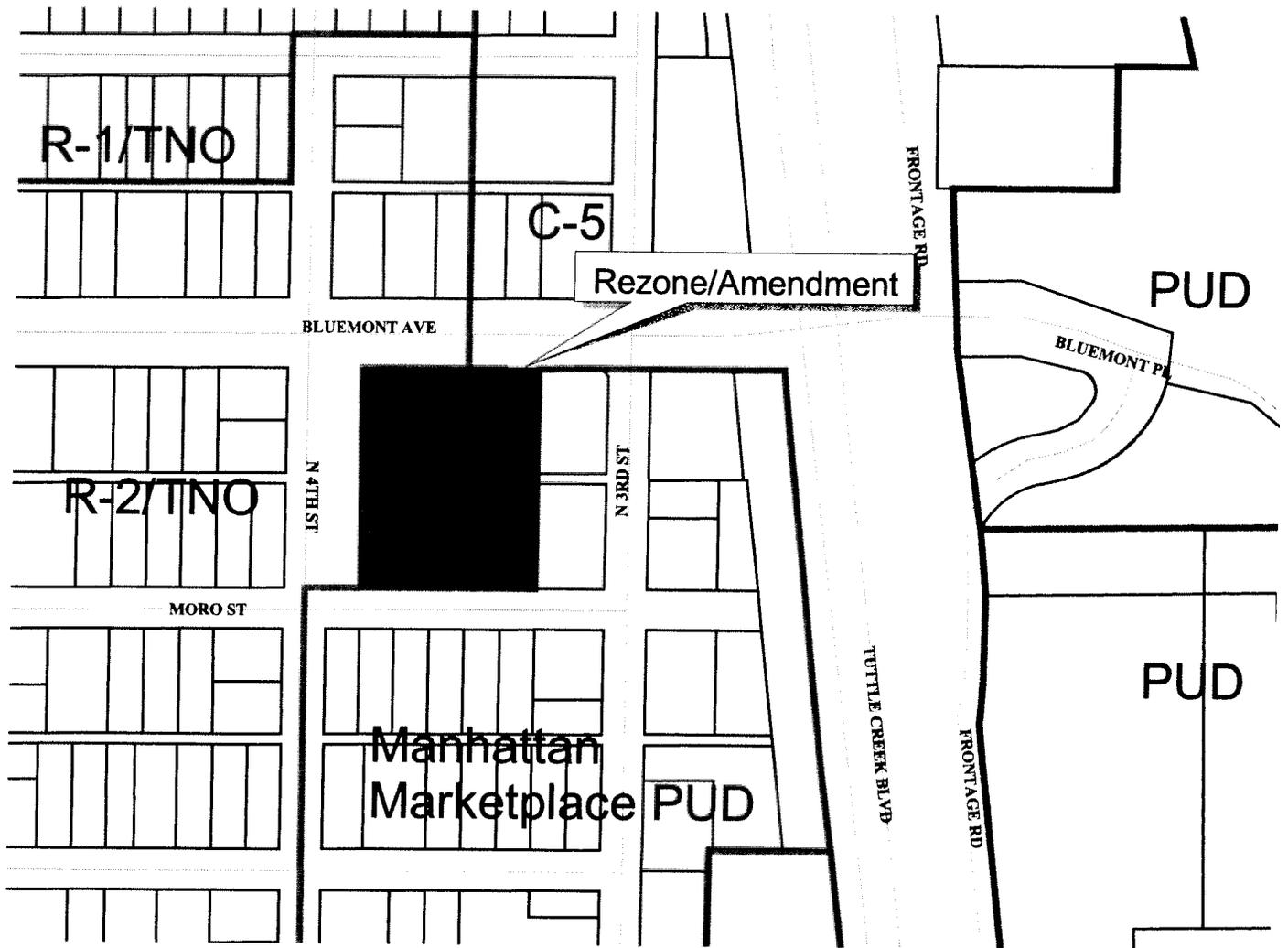
Approve first reading of an ordinance rezoning Lot 87, Ward 2, generally located east of Walgreen's from C-5, Highway Service Commercial District, to PUD, Commercial Planned Unit Development District, and amending the Walgreen's No. 1 Commercial Planned Unit Development, and Ordinance No. 6203, based on the findings in the Staff Report, with the three conditions of approval recommended by the Planning Board.

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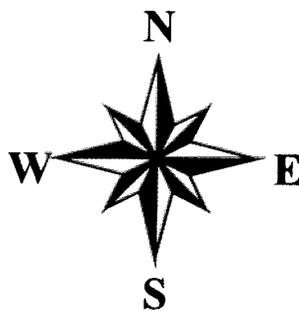
Enclosures:

1. Location map of rezoning and amendment
2. Staff Report on PUD Amendment and Rezoning Lot 87
3. Memorandum from City Engineer dated May 12, 2008
4. Ordinance No. 6203, dated March 6, 2001, establishing Walgreen's PUD
5. Future land Use Map - Comprehensive Plan
6. Approved Final Development Plan and Landscape Plan Walgreen's PUD -2001
7. Site plan showing layout of proposed amended Walgreen's PUD in relationship to northern end of Manhattan Marketplace, Unit Two PUD
8. Color site plan comparing existing Walgreen's PUD with proposed amended PUD
9. Application documents: site plans of proposed amended PUD
10. Written Application documents: letter from Schostak Brother & Company Inc., dated May 12, 2008; written documents addressing matter to be considered to amend and rezone property
11. Final Plat Gateway Subdivision No. 2
12. Draft Minutes of the May 19, 2008, Manhattan Urban Area Planning Board meeting
13. Project Chronology



General Location Map

Rezone Lot 87 C-5 to Walgreens PUD and Amend Walgreens PUD



STAFF REPORT

ON AN APPLICATION TO AMEND THE APPROVED FINAL DEVELOPMENT PLAN OF THE WALGREENS NO. 1 COMMERCIAL PUD, AND TO REZONE LOT 87, WARD 2, TO BE INCLUDED IN THE WALGREENS PUD

APPLICANT: Dial Manhattan LLC as Agent for Macomb Mall Holding LLC, Schostak Brothers and Co.

ADDRESS: 11506 Nicholas Street, Omaha, NE 69154.

OWNERS: Dial Manhattan LLC; and WG-7060 KS, LLC, a Delaware limited liability company, c/o Wachovia Development Corporation.

ADDRESSES: 11506 Nicholas Street, Omaha, NE 69154; One Wachovia Center, NC-00174, 301 South College Street, 10th Floor, Charlotte, NC 28288.

LOCATION: generally located at the Walgreens drug store south of Bluemont Avenue, west of N. 3rd Street, east of N. 4th Street, and north of Moro Street.

AREA: Total area approximately 2.15 acres for the revised Walgreens PUD.

DATE OF PUBLIC NOTICE PUBLICATION: Monday, April 28, 2008.

DATE OF PUBLIC HEARING: PLANNING BOARD: Monday, May 19, 2008.

CITY COMMISSION: Tuesday, June 3, 2008.

DESCRIPTION OF PROPOSED AMENDMENT:

Amendment

Amend the Final Development Plan and Ordinance No. 6203 of the Walgreens No. 1, Commercial Planned Unit Development to reduce the approved number of off-street parking spaces from 91 to 77; relocate the right-in/right-out along the south side of Bluemont Avenue approximately 38 feet to the east; modify the landscaping plan; and, add Lot 87, Ward 2, to the Walgreens PUD by rezoning it from C-5, Highway Service Commercial District, to PUD, Commercial Planned Unit Development District. Future changes to pedestrian access in the northwestern corner of the site will slightly modify the sidewalk location to accommodate the roundabout at N. 4th Street and Bluemont Avenue. The proposed changes are a result of property sales and the need for the two owners to facilitate the transfers of ownership, directly related to the previous rezoning of the Manhattan Marketplace, Unit Two, PUD in 2006. (Note: A proposed replat of Lot 1, Gateway Subdivision No. 2 (separate application) will create proposed Lots 1-5, Gateway Subdivision No. 2 to allow transfer of ownership. As described in the applicant's documents, proposed Lot 1 is owned by Walgreens and will remain in that

ownership; Lot 2 (Lot 87 to be rezoned) and Lot 3 are owned by Dial and will be transferred to the Walgreens owner; Lot 4 is owned by Dial and will remain in that ownership; and, Lot 5, owned by Walgreens, will be transferred to Dial. Lots 4 and 5 will be replatted in the future as a part of a Final Development Plan and Final Plat associated with Manhattan Marketplace, Unit Two, PUD.

No changes to existing signs or lighting are proposed. Lighting to the east of the Walgreens PUD will be included in the Manhattan Marketplace PUD and along Moro Street.

Original Walgreens PUD and Ordinance No. 6203

Ordinance No. 6203 was approved by the City Commission on March 6, 2001, with conditions of approval. The Planning Board approved the Final Development Plan on April 16, 2001. The existing PUD conforms to the conditions of approval, which include:

1. Permitted Uses shall be limited to a Walgreen's, with a drive-thru pharmacy.
2. Security for performance of the landscaping and underground irrigation shall be provided by agreement between the City and owner or owners.
3. Additional landscaping to include ornamental and shade trees, shrubs, flower beds, ground cover and other living plant materials shall be provided in the 12.6 foot setback between the property line and the off-street parking lot along Moro Street.
4. The ground sign shall be modified by adding limestone, or pre-cast limestone, top corners and header, in place of the metal cap, across the top of the sign board.
5. Signs shall be limited to a ground sign as modified above, and wall signs, as proposed in the application documents, and exempt signage described in Article VI, Section 6-104 (A) (1), (2), (4), (7) and (8); and Section 6-104 (B)(2); and, Section 6-104 (C)(1) and (D)(1), of the M
6. All outdoor lighting shall be shielded to reduce glare on adjacent streets and residential properties.
7. Additional use of limestone colored stone, pre-cast stone or brick, shall be provided in the location of the horizontal bands on the building exterior, which are described on the building elevations as a "soldier course".
8. All traffic circulation improvements to Bluemont Avenue, the alley and the Long John Silvers' site, as shown on the Preliminary Development Plan, shall be constructed concurrently with the Walgreen's site.
9. Additional steel and brick column fencing shall be added along the southwest corner of the site, up to the beginning of the parking lanes for the drive-thru pharmacy.
10. The applicant and City Administration shall recognize the pedestrian crossings at the entrances and exits on 3rd Street, 4th Street, Bluemont Avenue, and Moro Street, in some permanent manner.

Rezoning Lot 87, Ward 2

Present zoning district classification of Lot 87, Ward 2, is: C-5, Highway Service Commercial

District.

Proposed zoning district classification of Lot 87, Ward: PUD, Commercial Planned Unit Development 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 proposed amendment is consistent with the intent of the approved PUD, a single commercial use for a Walgreen's drug store and drive-thru pharmacy with off-street parking and access points off public streets. The amendment adds a 7,500 square foot lot (Lot 87) to the Walgreens PUD in order to relocate a right in/right out off Bluemont Avenue while maintaining adequate off-street parking and retaining landscaping. The amendment promotes the efficient development and preservation of the approved the Walgreens PUD by assuring that adequate access and off-street parking are provided consistent with the approved PUD. The amendment also accomplishes transfers of ownership between the two property owners related to rezoning of Manhattan Marketplace, Unit Two, PUD.

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 eastern portion of the PUD, an off-street parking lot, which was used by the former Long John Silvers restaurant and Walgreens, is owned by WG-7060 KS, LLC, a Delaware limited liability company, and will be transferred to Dial Realty Corp. Lots 4 and 5 were rezoned to Manhattan Marketplace, Unit Two, PUD in 2006. In addition, proposed Lots 2 (existing Lot 87, Ward 2) and 3, which are owned by Dial, will be transferred to Walgreens to establish the revised Walgreens PUD boundary.

WHETHER THE PROPOSED AMENDMENT WILL RESULT IN A RELATIVE GAIN TO THE PUBLIC HEALTH, SAFETY, CONVENIENCE OR GENERAL WELFARE, AND IS NOT GRANTED SOLELY TO CONFER A SPECIAL BENEFIT UPON ANY PERSON: The proposed amendment and rezoning of Lot 87, Ward 2, will facilitate and complete transfer of properties between the current owner of the Walgreens properties and Dial. The amendment and rezoning will result in the relocation of the right in/right out off Bluemont Avenue and create a safer access aisle off Bluemont Avenue within the Walgreens site. Currently, cut through traffic off Bluemont Avenue, wanting to avoid the traffic light at N. 3rd Street and Bluemont Avenue, enter the right in and head south through the Walgreens parking lot, which poses a safety hazard for customers exiting the drive-thru pharmacy. The relocated access aisle moves the drive thru exit and driving lane away from the building and provides improved and safer vision for drivers exiting the drive-thru.

The amendment is not granted solely as a benefit to any person; rather the amendment allows planned transfers of property between two developments and improves public safety.

ADDITIONAL MATTERS TO BE CONSIDERED WHEN AMENDING A PLANNED UNIT DEVELOPMENT

1. LANDSCAPING: New shade and ornamental trees, shrubs and ornamental grasses will be added on the west side of the new access aisle and in the relocated right in/right out island off Bluemont Avenue, which will be maintained by the owner of Walgreens. Underground irrigation will be used to assure landscaping is maintained in good condition.

2. SCREENING: No changes.

3. DRAINAGE: No changes.

4. CIRCULATION: The relocated access aisle and right in/right out are shifted to the east from their current locations and will connect Moro Street and Bluemont Avenue. No other changes are proposed.

Off-street parking is reduced from 91 parking spaces, approved with the original Walgreens PUD, to 77 parking spaces. Based on the commercial floor area of the Walgreens store, a minimum of 48 parking spaces would be required, as calculated with the original Walgreens PUD. The amendment results in 29 more parking spaces than required by the Manhattan Zoning Regulations.

Sidewalks are provided around and within the site, which connect to the existing neighborhood sidewalk system. On-site sidewalks are provided along the north and west sides of the building for pedestrians.

A memorandum from the City Engineer (attachment dated May 12, 2008) supports the need for the proposed right in/right out, which was originally shown as a future improvement on the Walgreens site at the time Manhattan Marketplace, Unit Two, PUD was rezoned in 2006 (attachment).

5. OPEN SPACE AND COMMON AREA: Approximately .299 acres, or 13,024 square feet of the amended Walgreens site (proposed Lots 1-3) is open/landscaped space, equivalent to approximately 14% of the total amended site (13,024 sf/93,218sf).

6. CHARACTER OF THE NEIGHBORHOOD: The neighborhood is a mixture of residential and planned commercial uses, consisting of single-family and two-family dwelling units to the west and northwest of Walgreens and Lot 87. Commercial activities, Manhattan Marketplace PUD and highway commercial businesses are to the south, east and northeast.

EXISTING USE: Walgreens drug store, off street parking, landscaping and other site improvements, and vacant commercial lots in future Manhattan Marketplace, Unit Two, PUD, and vacant Lot 87, Ward 2.

PHYSICAL AND ENVIRONMENTAL CHARACTERISTICS: A developed site with commercial building, off-street parking and other improvements, except that Lot 87 is vacant and grass covered. The amendment and rezoning site are located in the 500 Year Flood Plain. There is no development standard applied to construction located in the 500 year Flood Plain.

SURROUNDING LAND USE AND ZONING:

(a.) NORTH: Bluemont Avenue, a four-lane arterial street; residential dwellings and highway commercial uses: self-serve gas and convenience store, drive-in restaurants; R2/TNO and C5 Districts.

(b.) SOUTH: Moro Street, and Manhattan Marketplace Shops commercial uses; PUD.

(c.) EAST: North 3rd Street, future Manhattan Marketplace Unit Two PUD, a commercial development; PUD.

(d.) WEST: North 4th Street, single-family and two-family residential dwelling units; R2/TNO.

GENERAL NEIGHBORHOOD CHARACTER: See above.

SUITABILITY OF SITE FOR USES UNDER CURRENT ZONING: Lot 87 is unsuitable for the existing uses allowed in the C-5 District. The site is too small to conform to the minimum requirements of the C-5 District as it previously had been part of a larger site for a Long John Silvers restaurant. The existing Walgreens PUD is suitable for the permitted use of the site. Combining Lot 87 with the Walgreens PUD will allow an existing right in/right out to be relocated and accommodate transfers of land between the Dial and the owner of the Walgreens PUD.

COMPATIBILITY OF PROPOSED DISTRICT WITH NEARBY PROPERTIES AND EXTENT TO WHICH IT MAY HAVE DETRIMENTAL AFFECTS: The rezoning along Bluemont Avenue and the amendment of the Walgreens PUD are consistent with the commercial nature of the properties. Nearby properties should not have any detrimental affects as the Walgreens PUD and Lot 87 are commercial locations along a major street corridor.

CONFORMANCE WITH COMPREHENSIVE PLAN: The Manhattan Urban Area Comprehensive Plan shows the Walgreen site and Lot 87, Ward 2 as Central Core District (CCD), which is a special purpose designation for the Downtown Core. The amendment and rezoning sites are also designated as a primary redevelopment area for expansion of the Central Business District, in Downtown Tomorrow – A Redevelopment Plan for Downtown Manhattan, Kansas, adopted in May 2000. The proposed amendment of the Walgreens PUD and rezoning of Lot 87, Ward 2, conform to the Comprehensive Plan.

ZONING HISTORY AND LENGTH OF TIME VACANT AS ZONED:

Lot 87

| | |
|-------------|--|
| Late 1800's | Lots 87 established as part of original town plat. |
| 1926-1940 | A, First Dwelling District. |
| 1940-1954 | B, Second Dwelling District. |
| 1954-1965 | B, Second Dwelling District. |
| 1965-1969 | A, Single and Two Family Dwelling District. |
| 1969-2008 | C-5 District. |

Walgreens PUD

| | |
|-------------------|--|
| 1969-Present | R-2 District, and C-5 District for Lot 88 and Lots 93-96. |
| February 5, 2001 | Manhattan Urban Area Planning Board recommends approval of rezoning from C-5 and R-2 Districts to PUD. |
| February 20, 2001 | City Commission approves first reading. |
| March 6, 2001 | City Commission approves Ordinance No. 6203. |
| April 16, 2001 | Planning Board approved Final Development Plan |
| May 7, 2001 | Planning Board approves Final Plat of the Gateway Subdivision No. 1. |
| May 15, 2001 | City Commission considers accepting easements and rights-of-way as shown on the Final Plat of the Gateway Subdivision No. 1. |

Walgreens was constructed in 2001-2002. Lot 87 has been vacant for several years.

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 and rezoning are consistent with the intent and purpose the Zoning Regulations and the intent and purpose of the Walgreens PUD, and Ordinance No. 6203.

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; however, it may be a hardship on the applicant if the amendment and rezoning are denied. The amendment and rezoning will accommodate a relocated right in/right out off Bluemont Avenue and a relocated driving aisle, which will make internal access safer and more efficient by moving the existing aisle away from the building's east side in proximity to the exit lane for the drive-in pharmacy, as well as facilitate planned transfers of ownership of identified properties.

ADEQUACY OF PUBLIC FACILITIES AND SERVICES: Adequate public facilities and services are available to serve the PUD. The 15 foot public alley south of existing Lot 87 will be vacated as a part of the proposed Final Plat of Gateway Subdivision, No.2.

OTHER APPLICABLE FACTORS: None.

STAFF COMMENTS: City Administration recommends approval of the proposed Amendment to Final Development Plan of the Walgreens No. 1, Commercial Planned Unit Development; and, the rezoning of Lot 87, Ward 2, from C-5, Highway Service Commercial District, to PUD, Commercial Planned Unit Development District, with the following conditions:

1. Landscaping and irrigation shall be provided pursuant to a Landscaping Performance Agreement between the City and the owner, which shall be entered into prior to approval of the plans for the right in/right out along Bluemont Avenue.
2. All landscaping and irrigation shall be maintained in good condition.
3. The Final Development Plan for Lot 1, Lot 2, and Lot 3 shall be subject to the conditions of approval of Ordinance No. 6203.

ALTERNATIVES:

1. Recommend approval of the proposed Amendment of the Final Development Plan of the Walgreens No. 1 Commercial Planned Unit Development, and rezone Lot 87, Ward 2, to PUD, Commercial Planned Unit Development District, stating the basis for such recommendation.
2. Recommend approval of the proposed Amendment of the Final Development Plan of the Walgreens No. 1 Commercial Planned Unit Development, and rezone Lot 87, Ward 2, to PUD, Commercial Planned Unit Development District and modify the conditions, and any other portions of the proposed PUD, to meet the needs of the community as perceived by the Manhattan Urban Area Planning Board, stating the basis for such recommendation, and indicating the conditions of approval.
3. Recommend denial of the proposed 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 Walgreens No. 1 Commercial Planned Unit Development; and, the rezoning of Lot 87, Ward 2, from C-5, Highway Service Commercial District, to PUD, Commercial Planned Unit Development District, based on the findings in the Staff Report, with the three conditions recommended by City Administration.

PREPARED BY: Steve Zilkie, AICP, Senior Planner

DATE: May 14, 2008



INTER-OFFICE MEMORANDUM

DATE: May 12, 2008

TO: Steve Zilkie, AICP, Senior Planner

FROM: Robert K. Ott, P.E., City Engineer

RE: Walgreens Final P.U.D. – Transportation Network

Transportation Network – Right-in/Right-Out on Bluemont Avenue

The consultant prepared a comprehensive traffic report that examined the entire corridor from a future McCall Road extension south to K-18 of Ft. Riley Boulevard of this area. The reports along with various concepts were presented to the public in a series of open house meetings and public meetings before the City Commissioners. A final report and recommendation were given to the consultant by the City Commissioners for this project in terms of infrastructure improvements.

The configuration of the right-in/ right-out entrance from Walgreens to Bluemont Avenue that is before the planning board for consideration is a previous concept that was approved with the original preliminary PUD in 2006. There is an existing entrance today that exists between 3rd Street and 4th Street with these same restrictions to turning movements. This final plan moves that entrance slightly east away from 4th Street.

One of the advantages of the relocation of right-in/right-out to the east is that traffic will no longer drive through the Walgreens parking lot and traverse into the drive through area of the pharmacy pick-up window. Connections from the Walgreens parking lot will be provided to the entrance. This configuration reduces the typical conflict points associated with motorists trying to find parking spaces and hence reduces the risk of crashes.

The use of right-in/right-out entrances is a common trend for cities to use on major arterial streets such as Bluemont Avenue. The City of Manhattan has recently used that technique on Anderson Avenue adjacent to Dillion Super Market Store and has been successful to date. A typical intersection has 32 conflict points associated with all the potential options of turning directions at an intersection. An entrance configuration of this type reduces the conflict point to four specific points. And the four specific points that remain are commonly associated with less severe crashes than other types of crashes such as head on and right angle crashes.

Public Works Administration recommends approval of the Right-In/Right-Out entrance that will provide a connection to Moro Street and provide a safer connection to Walgreens parking lot than what exist today.

ORDINANCE NO. 6203

AN ORDINANCE REZONING A TRACT OF LAND IN THE CITY OF MANHATTAN, KANSAS, AND AMENDING THE ZONING MAP ACCORDINGLY.

FROM: C-5, Highway Service Commercial District, and R-2, Two-Family Residential District

TO: PUD, Commercial Planned Unit Development District

WHEREAS, the Manhattan Urban Area Planning Board, (“MUAPB”) of the City of Manhattan, Kansas, at a public hearing held on the 5th day of February, 2001, after notice therefore as provided by the Manhattan Zoning Regulations, considered an application for the establishment of a Planned Unit Development District upon the real estate hereinafter described; and,

WHEREAS, the MUAPB recommended approval of the proposed amendment, with ten (10) conditions; and,

WHEREAS, on February 20, 2001, and again on March 6, 2001, the Governing Body of the City of Manhattan, Kansas, gave due consideration to the proposed Planned Unit Development District and the recommendation of the Manhattan Urban Area Planning Board, and following discussion, approved the establishment of a Planned Unit Development District with Conditions No. 1-3 and 5-10, as recommended by the Manhattan Urban Area Planning Board; and overrode the Manhattan Urban Area Planning Board’s recommendation regarding Condition No. 4, by a two-thirds majority vote (5-0) of the membership of the Governing Body and modified Condition No. 4, as set forth hereinafter, to meet the needs of the City, as perceived by the Commission; and,

WHEREAS, the MUAPB and the Governing Body have considered and/or addressed all matters set forth within Sections 9-104 and 15-403 of the Manhattan Zoning Regulations and have found that the approval of the proposed amendment, subject to the restrictions, conditions, or limitations set forth hereinafter, is consistent with such provisions.

NOW THEREFORE BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF MANHATTAN, KANSAS:

Section 1. That the boundaries of the tract of land (“Property”) subject to the rezoning contained hereinafter, are as follows: The Walgreen’s Planned Unit Development is generally bounded by Bluemont Avenue, North 4th Street, North 3rd Street and Moro Street. More specifically, see Exhibit A.

Section 2. That the Property is hereby rezoned from C-5, Highway Service Commercial District, and R-2, Two-Family Residential District to PUD, Commercial Planned Unit Development District, and the official Zoning District Map is hereby amended accordingly.

Section 3. There is hereby incorporated by reference, and adopted and enforceable, where applicable, as a part hereof, all drawings and documents submitted as a part of the application, as such drawings and documents have been revised with the approval of the MUAPB as a part of the Final Development Plan. No such drawing or document shall be deemed applicable, to the extent it is inconsistent or in conflict with the provisions of this Ordinance. All such documents shall be maintained along with the application for the establishment of the planned unit development district on file in the zoning administrator's office.

Section 4. The Property is subject to the following restrictions, conditions or limitations, and such restrictions, conditions or limitations shall supersede any portion of the application in conflict therewith:

1. Permitted Uses shall be limited to a Walgreen's, with a drive-thru pharmacy.
2. Security for performance of the landscaping and underground irrigation shall be provided by agreement between the City and owner or owners.
3. Additional landscaping to include ornamental and shade trees, shrubs, flower beds, ground cover and other living plant materials shall be provided in the 12.6 foot setback between the property line and the off-street parking lot along Moro Street.
4. The ground sign shall be modified by adding limestone, or pre-cast limestone, top corners and header, in place of the metal cap, across the top of the sign board.
5. Signs shall be limited to a ground sign as modified above, and wall signs, as proposed in the application documents, and exempt signage described in Article VI, Section 6-104 (A) (1), (2), (4), (7) and (8); and Section 6-104 (B)(2); and, Section 6-104 (C)(1) and (D)(1), of the Manhattan Zoning Regulations.
6. All outdoor lighting shall be shielded to reduce glare on adjacent streets and residential properties.
7. Additional use of limestone colored stone, pre-cast stone or brick, shall be provided in the location of the horizontal bands on the building exterior, which are described on the building elevations as a "soldier course".
8. All traffic circulation improvements to Bluemont Avenue, the alley and the Long John Silvers' site, as shown on the Preliminary Development Plan, shall be constructed concurrently with the Walgreen's site.
9. Additional steel and brick column fencing shall be added along the southwest corner of the site, up to the beginning of the parking lanes for the drive-thru pharmacy.

10. The applicant and City Administration shall recognize the pedestrian crossings at the entrances and exits on 3rd Street, 4th Street, Bluemont Avenue, and Moro Street, in some permanent manner.

Section 5. The Final Development Plan, and all provisions of the application which are consistent with and in compliance with the Final Development Plan, as approved by the MUAPB, and all restrictions, conditions or limitations imposed hereby, however recorded, shall be considered to be covenants upon the Property and shall run in favor of the City and shall be enforceable in law or in equity by the City, without limitation on any power or regulation otherwise granted to the City by law.

Section 6. All owners, occupants and persons in charge of the Property shall comply with all applicable provisions of the Manhattan Zoning Regulations as well as all provisions of the application, the Final Development Plan and all restrictions, conditions or limitations imposed by this Ordinance. Any violation of the Ordinance shall be deemed a violation of the Manhattan Zoning Regulations.

Section 7. This ordinance shall take effect and be in force from and after its publication in the official city newspaper.

PASSED AND ADOPTED THIS 6TH DAY OF MARCH, 2001, BY THE GOVERNING BODY OF THE CITY OF MANHATTAN, KANSAS.



ATTEST:

Brenda K. Wolf

BRENDA K. WOLF, CMC,
Deputy City Clerk

CITY OF MANHATTAN:

Karen McCulloh

KAREN MCCULLOH,
Mayor

Exhibit A

Walgreen's PUD Legal Description

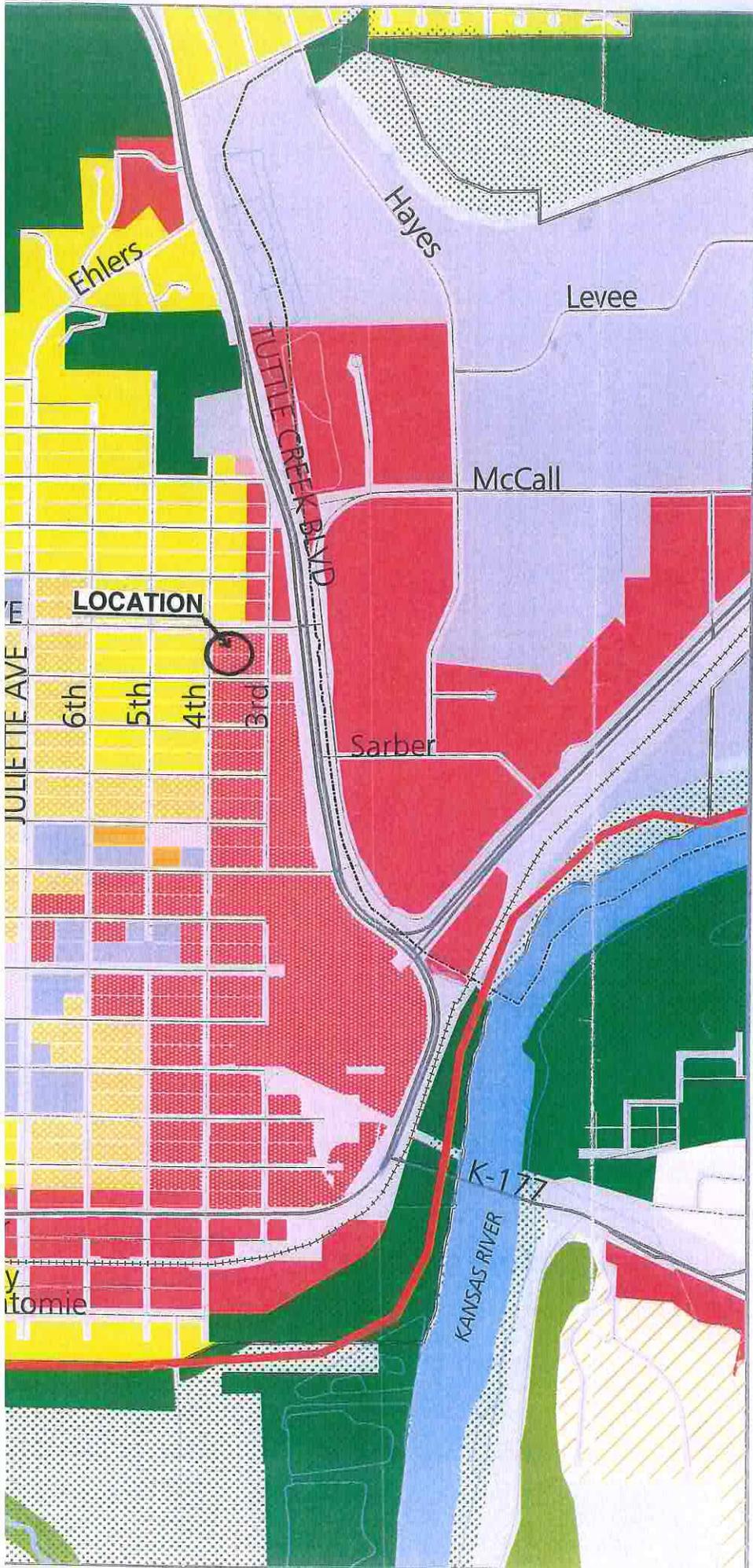
Lots 88 through 100, Ward 2, City of Manhattan, Riley County, Kansas, and all of the adjacent alley, described as follows:

Beginning at the Northwest corner of said Lot 92; thence North 89 degrees 54 minutes 30 seconds East, along the South right-of-way line of Bluemont Avenue, a distance of 250.58 feet to the Northeast corner of said Lot 88; thence South 00 degrees 04 minutes 53 seconds West, along the East line of said Lot 88, a distance of 150.09 feet to the Southeast corner of said Lot 88; thence North 89 degrees 57 minutes 02 seconds East, along the South lines of said Lots 87, 86, and 85, a distance of 150.53 feet to the Southeast corner of said Lot 85; thence South 00 degrees 05 minutes 00 seconds West, along the West right-of-way line of North Third Street, a distance of 165.24 feet; thence North 90 degrees 00 minutes 00 seconds West, along the North right-of-way line of Moro Street, a distance of 401.38 feet; thence North 00 degrees 08 minutes 00 seconds East, along the East right-of-way line of North Fourth Street, a distance of 314.80 feet to the Point of Beginning.

The above described tract contains 103,839 square feet (2.38 acres) of land, more or less.

Downtown Core Neighborhoods

FUTURE LAND USE



- Residential**
- Rural Residential
 - Rural Residential
 - Low/Medium Density
 - Medium/High Density
 - High Density

*Note: Hatched areas of rural residential are presumed to remain at rural densities defined in subarea plans if City services are not extended. These areas could be developed to urban densities if City services are extended.

- Commercial**
- Central Core District
 - Community Commercial
 - Neighborhood Commercial
 - Future Community Commercial Center
 - Future Neighborhood Commercial Center

- Industrial/Office**
- Industrial
 - Office-Research Park

- Public/Institutional**
- Parks and Recreation
 - Preserved Open Space
 - Public/Semi-Public
 - Kansas State University

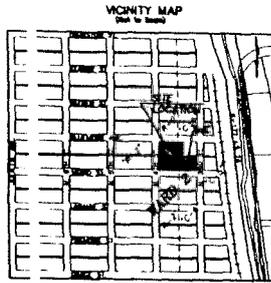
- Agriculture
- Environmentally Sensitive Areas**
- Flood Hazard Area***
- Streams/Wetlands
- Manhattan City Limits
- Urban Service Area Boundary
- County Line

**Environmentally Sensitive Areas are those areas that were identified as Environmental Constraints in the 1991 Comprehensive Plan or as Natural Areas of the Highest Priority for Preservation by the Northern Plains Audubon Society.

***Flood Hazard Areas include designated FEMA floodway and areas inundated during the 1993 Flood Event where new development would be prohibited.

Source: City of Manhattan, Riley County, Polk-Johnson County April 2003

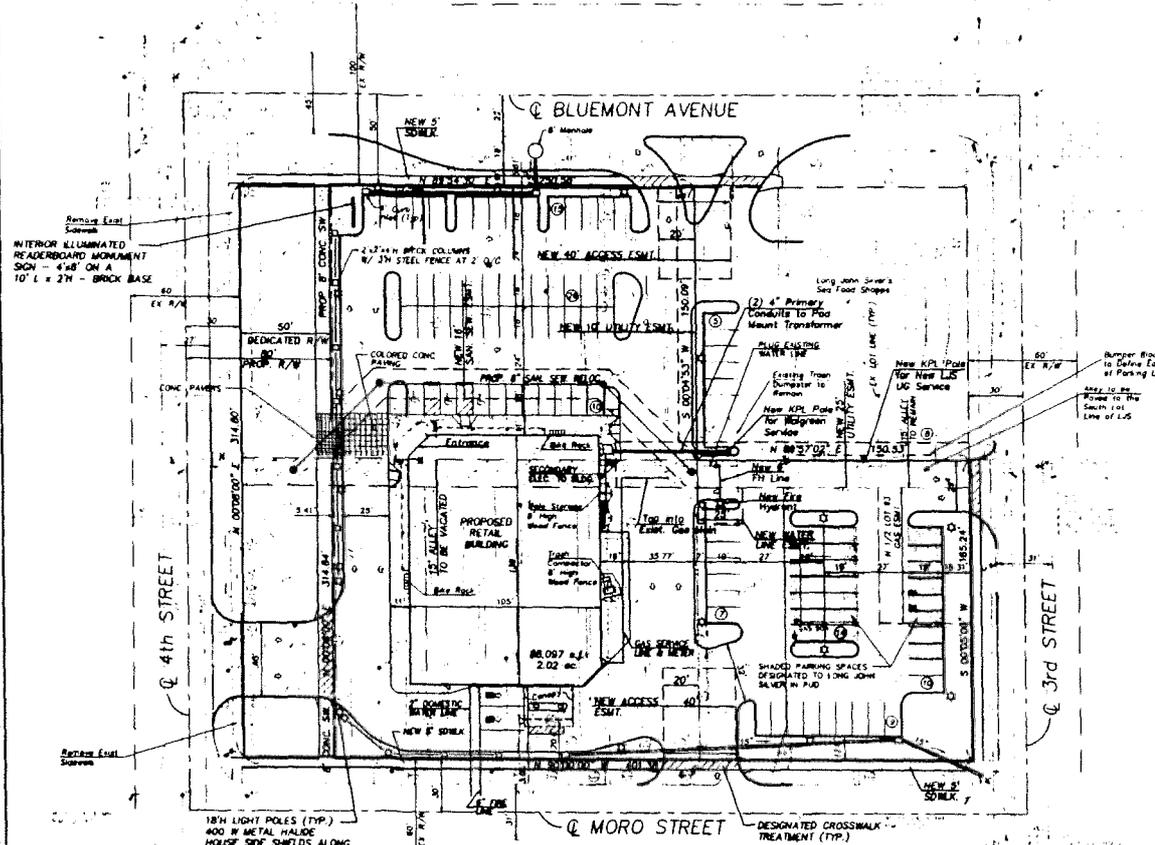




-LEGEND-

- Telephone Pedestal
- Telephone Manhole
- Electric Manhole
- Storm Sewer Manhole
- Sanitary Sewer Manhole
- Traffic Signal Manhole
- Traffic Signal Pole
- Water Meter
- Water Valve
- Power Pole
- Gas Valve
- Light Pole
- Fence
- Manhole
- Pay Phone
- Water Hydrant
- Traffic Signal Box
- Tree Existing
- Fire Hydrant
- TV Manhole
- Water Line
- Gas Line
- Telephone Line
- Underground Electric
- Sanitary Sewer Line
- Storm Sewer
- Proposed Power Pole
- Proposed Fire Hydrant
- Proposed Light Pole
- Proposed Fence

SCALE 1"=30'
CONTOUR INTERVAL: 1'



OWNERS:

Robert Todd and Theresa A. Boudreau, Part of Lots 93 and 94
 Maximum Comfort Services, Inc., Part of Lots 93 and 94
 Miriam C. and William E. Pansury, Co-Trustees of Living Trust, Lot 90
 Belle A. Anderson Trustee of the Belle A. Anderson Trust, Lot 89
 Department of Veterans Affairs, Lot 98
 Don D. and Jean L. Bell, legal owner, and Michael R. Dawidow, equitable interest, Lots 91 and 92
 Darrell L. and Aaone P. Craig, Lot 98
 Sharon M. and Edward L. Waddery, Lots 96 and 97
 Mary M. Cowler, Trustee of the Mary M. Cowler Trust, Lot 100
 FFCA Acquisition Corporation, Lot 95

APPLICANT / DEVELOPER:

H.T. PAUL COMPANY, INC. TOPEKA, KANSAS
 231 S. Kansas Avenue, Topeka, Kansas 66603
 (785) 232-0747

ENGINEER:

CHOK, FLATT & SINGH ENGINEERS, P.A., TOPEKA, KANSAS
 6111 SW 29th Street, Topeka, Kansas 66614
 (785) 272-4708

LEGAL DESCRIPTION

Lots 88 through 100, Ward 2, City of Manhattan, Riley County, Kansas, and all of the adjacent alley, described as follows:

Beginning at the Northwest corner of said Lot 92, thence North 89 degrees 54 minutes 30 seconds East, along the South right-of-way line of Bluemont Avenue, a distance of 250.58 feet to the Northeast corner of said Lot 88, thence South 00 degrees 04 minutes 53 seconds West, along the East line of said Lot 88, a distance of 150.09 feet to the Southeast corner of said Lot 88, thence North 89 degrees 57 minutes 02 seconds East, along the South line of said Lots 87, 86, and 85, a distance of 150.53 feet to the Southeast corner of said Lot 85, thence South 00 degrees 03 minutes 00 seconds West, along the west right-of-way line of North Third Street, a distance of 165.24 feet, thence North 90 degrees 00 minutes 00 seconds West, along the North right-of-way line of Moro Street, a distance of 401.38 feet, thence North 00 degrees 08 minutes 00 seconds East, along the East right-of-way of North Fourth Street, a distance of 314.80 feet to the Point of Beginning.

The above described tract contains 103,839 square feet (2.38 acres) of land, more or less.

| LOT COVERAGE DATA | | |
|--------------------------------------|----------------|---------------------|
| | SQUARE FOOTAGE | PERCENT OF LOT AREA |
| PROPOSED BUILDING | 14,490 | 13.9 % |
| DRIVEWAYS AND PARKING AREAS (PAVING) | 58,928 | 66.4 % |
| LANDSCAPING AREA | 20,423 | 19.7 % |

| PARKING DATA | |
|-----------------------------------|------------|
| Proposed Walgreen's Spaces in PUD | 69 |
| Proposed T.U.S. Spaces in PUD | 91 |
| Total Spaces in PUD | 160 |

Existing Long John Silver's currently has 35 spaces. Reconfiguration of their parking will give them 13 space on-site and 22 spaces immediately adjacent to their site in a common parking and common area agreement of the PUD. This will give them a total of 58 spaces.

Approved by the Manhattan Urban Area Planning Board this _____ day of _____ 2001

Name _____ Date _____ Name _____ Date _____
 Chairman Secretary of the Planning Board

All development within the Walgreen's Planned Unit Development shall conform to the approved Final Development Plan and Ordinance No. 8203 dated March 8, 2001 (as may be amended).

**FINAL DEVELOPMENT PLAN
 WALGREEN'S NO. 1
 A COMMERCIAL PLANNED UNIT DEVELOPMENT**

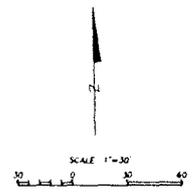
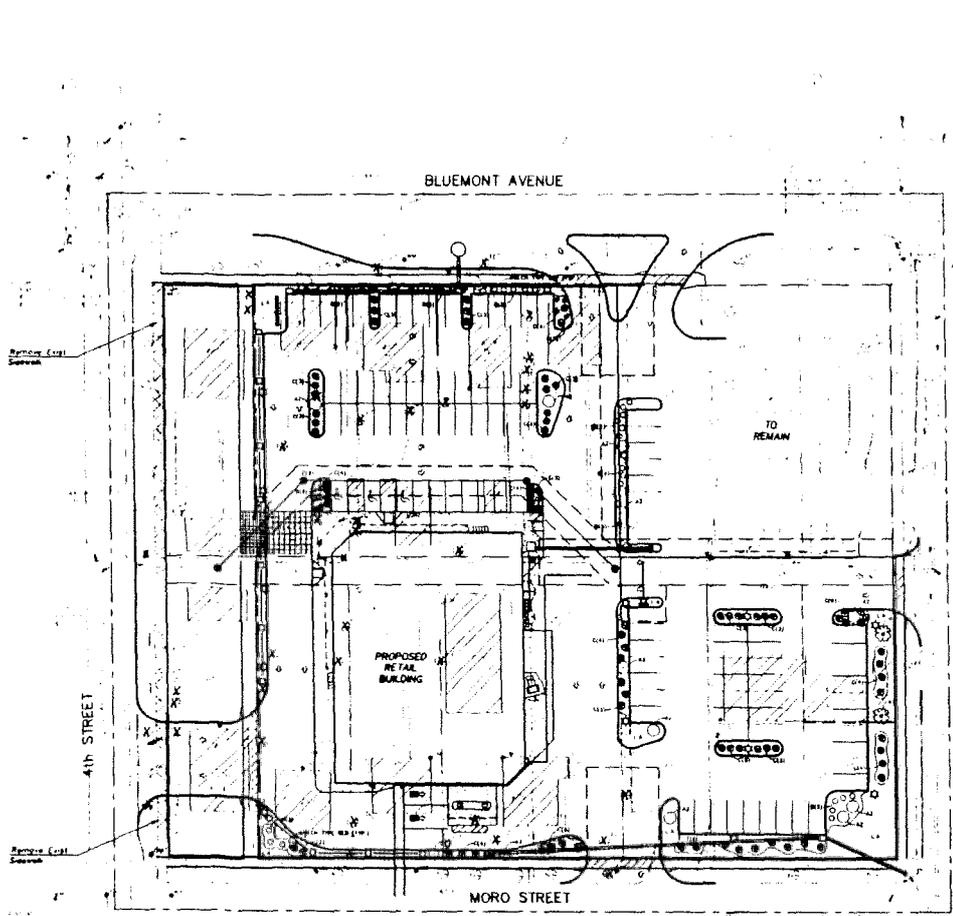


City of Manhattan, Kansas March 8, 2001

APPROVED FINAL DEVELOPMENT PLAN SITE PLAN FOR WALGREENS-2001

NCS, BM, R-114, ELEV 1036.82
 TBM #1 - Top ESE bolt fire hydr. at NE cor. 4th & Deage Elev. 1015.48
 BM #1 - Top ESE bolt fire hydr. at NE cor. 4th & Moro Elev. 1014.585
 BM #2 - cut NE cor. KMAN Radio Sta. sign base SW cor. 3rd & Moro Elev. 1011.45
 BM #3 - cut S edge curb return SW cor. 4th & Bluemont Elev. 1011.12

Note: SHOT & Call Comm. to Relocate Phone / Cable Service Around Property in New 10' UTILITY Easement to Bluemont ROW & Back to 4th St. ROW to Pick up Existing Lines.



| ANTICIPATED PRECIPITATION SIZES | | LANDSCAPE LEGEND | |
|---------------------------------|-------------------|------------------|----------------|
| PLANT TYPE | QUANTITY PER YEAR | SYMBOL | LANDSCAPE ITEM |
| 1. PLANTING MULCH BEDS | 1 | ○ | 1. MULCH BEDS |
| 2. PLANTING MULCH BEDS | 2 | ○ | 2. MULCH BEDS |
| 3. PLANTING MULCH BEDS | 3 | ○ | 3. MULCH BEDS |
| 4. PLANTING MULCH BEDS | 4 | ○ | 4. MULCH BEDS |
| 5. PLANTING MULCH BEDS | 5 | ○ | 5. MULCH BEDS |
| 6. PLANTING MULCH BEDS | 6 | ○ | 6. MULCH BEDS |
| 7. PLANTING MULCH BEDS | 7 | ○ | 7. MULCH BEDS |
| 8. PLANTING MULCH BEDS | 8 | ○ | 8. MULCH BEDS |
| 9. PLANTING MULCH BEDS | 9 | ○ | 9. MULCH BEDS |
| 10. PLANTING MULCH BEDS | 10 | ○ | 10. MULCH BEDS |
| 11. PLANTING MULCH BEDS | 11 | ○ | 11. MULCH BEDS |
| 12. PLANTING MULCH BEDS | 12 | ○ | 12. MULCH BEDS |
| 13. PLANTING MULCH BEDS | 13 | ○ | 13. MULCH BEDS |
| 14. PLANTING MULCH BEDS | 14 | ○ | 14. MULCH BEDS |
| 15. PLANTING MULCH BEDS | 15 | ○ | 15. MULCH BEDS |
| 16. PLANTING MULCH BEDS | 16 | ○ | 16. MULCH BEDS |
| 17. PLANTING MULCH BEDS | 17 | ○ | 17. MULCH BEDS |
| 18. PLANTING MULCH BEDS | 18 | ○ | 18. MULCH BEDS |
| 19. PLANTING MULCH BEDS | 19 | ○ | 19. MULCH BEDS |
| 20. PLANTING MULCH BEDS | 20 | ○ | 20. MULCH BEDS |
| 21. PLANTING MULCH BEDS | 21 | ○ | 21. MULCH BEDS |
| 22. PLANTING MULCH BEDS | 22 | ○ | 22. MULCH BEDS |
| 23. PLANTING MULCH BEDS | 23 | ○ | 23. MULCH BEDS |
| 24. PLANTING MULCH BEDS | 24 | ○ | 24. MULCH BEDS |
| 25. PLANTING MULCH BEDS | 25 | ○ | 25. MULCH BEDS |
| 26. PLANTING MULCH BEDS | 26 | ○ | 26. MULCH BEDS |
| 27. PLANTING MULCH BEDS | 27 | ○ | 27. MULCH BEDS |
| 28. PLANTING MULCH BEDS | 28 | ○ | 28. MULCH BEDS |
| 29. PLANTING MULCH BEDS | 29 | ○ | 29. MULCH BEDS |
| 30. PLANTING MULCH BEDS | 30 | ○ | 30. MULCH BEDS |
| 31. PLANTING MULCH BEDS | 31 | ○ | 31. MULCH BEDS |
| 32. PLANTING MULCH BEDS | 32 | ○ | 32. MULCH BEDS |
| 33. PLANTING MULCH BEDS | 33 | ○ | 33. MULCH BEDS |
| 34. PLANTING MULCH BEDS | 34 | ○ | 34. MULCH BEDS |
| 35. PLANTING MULCH BEDS | 35 | ○ | 35. MULCH BEDS |
| 36. PLANTING MULCH BEDS | 36 | ○ | 36. MULCH BEDS |
| 37. PLANTING MULCH BEDS | 37 | ○ | 37. MULCH BEDS |
| 38. PLANTING MULCH BEDS | 38 | ○ | 38. MULCH BEDS |
| 39. PLANTING MULCH BEDS | 39 | ○ | 39. MULCH BEDS |
| 40. PLANTING MULCH BEDS | 40 | ○ | 40. MULCH BEDS |
| 41. PLANTING MULCH BEDS | 41 | ○ | 41. MULCH BEDS |
| 42. PLANTING MULCH BEDS | 42 | ○ | 42. MULCH BEDS |
| 43. PLANTING MULCH BEDS | 43 | ○ | 43. MULCH BEDS |
| 44. PLANTING MULCH BEDS | 44 | ○ | 44. MULCH BEDS |
| 45. PLANTING MULCH BEDS | 45 | ○ | 45. MULCH BEDS |
| 46. PLANTING MULCH BEDS | 46 | ○ | 46. MULCH BEDS |
| 47. PLANTING MULCH BEDS | 47 | ○ | 47. MULCH BEDS |
| 48. PLANTING MULCH BEDS | 48 | ○ | 48. MULCH BEDS |
| 49. PLANTING MULCH BEDS | 49 | ○ | 49. MULCH BEDS |
| 50. PLANTING MULCH BEDS | 50 | ○ | 50. MULCH BEDS |

- GENERAL NOTES:**
1. ALL LAWN AREAS (INCLUDING RIGHT OF WAY AREAS) ARE TO BE SCOOLED REFERENCE WALGREENS CRITERIA SPECIFICATIONS FOR MORE INFORMATION.
 2. ALL LANDSCAPED AREAS (LAWNS, MULCH BEDS, BRUSH COVER, ETC.) TO BE IRRIGATED WITH AUTOMATIC SPRINKLER SYSTEM. REFERENCE WALGREENS CRITERIA SPECIFICATIONS FOR MORE INFORMATION.
 3. ALL SHRUBS TO BE PLANTED IN BED OF BRUSH WITH STEEL EDGING.

- BUILDINGS TO BE REMOVED FROM THE SITE
- X TREES TO BE REMOVED FROM THE SITE

The Owners of the Walgreen property and the LJS properties agree to enter into a common area maintenance agreement with respect to each of the common entries and those areas identified as "no access easement". Such agreement shall provide that, following initial construction, said owners shall be responsible for the maintenance, up keep, repair, cleaning, sweeping, snow removal, etc. of each said entries in the amount of one-half (1/2) the cost per owner for applicable work.

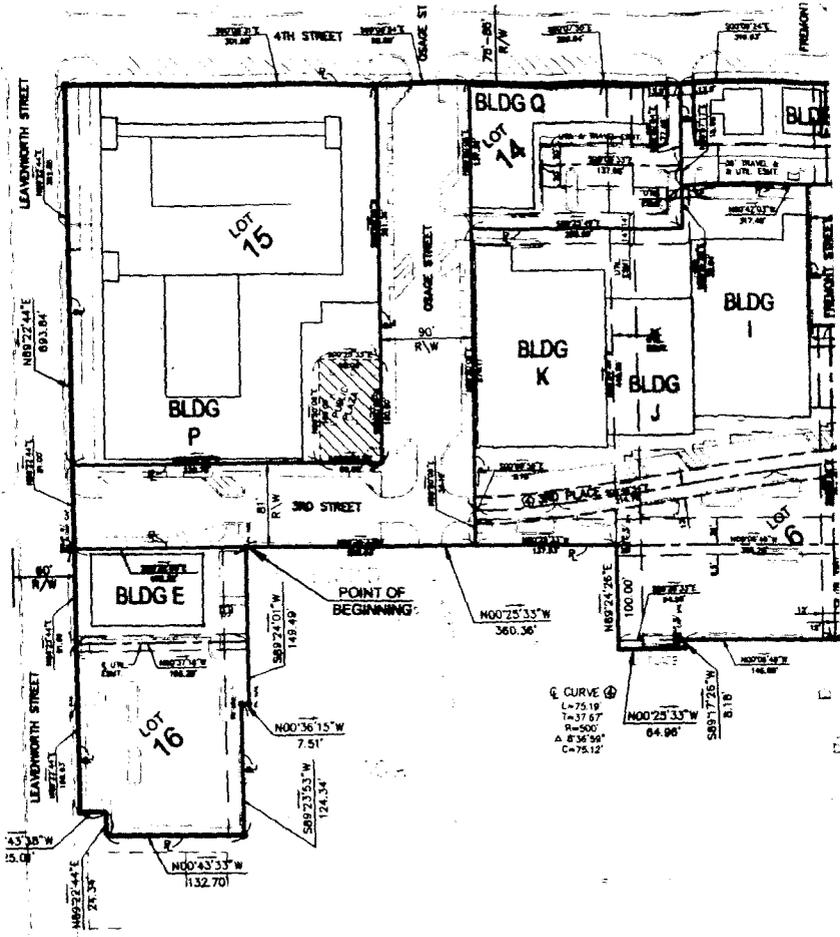
The Owners of the Walgreen property and the LJS properties agree to enter into a common parking and common area maintenance agreement with respect to those three lots (93, 94, 95) and the common landscape areas of lots 87, 88 and 96. Such agreement shall provide that, following initial construction, said owners shall be responsible for the maintenance, up keep, repair, cleaning, sweeping, snow removal, landscape up keep and maintenance, etc. applicable to said property and that said owners shall have common parking rights over and upon all said areas. The Walgreen's property owner shall be responsible for two-thirds (2/3) of the cost of said maintenance and the LJS owner shall be responsible for one-third (1/3) of the cost of said maintenance.

FINAL DEVELOPMENT PLAN
WALGREEN'S NO. 1
A COMMERCIAL PLANNED UNIT DEVELOPMENT

City of Manhattan, Kansas March 2, 2001



APPROVED FINAL DEVELOPMENT PLAN LANDSCAPE PLAN FOR WALGREENS-2001



SUBDIVISION BOUNDARY LEGAL DESCRIPTION

1/4 land located in Ward 2, City of Manhattan, Kansas being more or less as described as follows:
 Beginning and Beginning of the Southwest corner of former Lot 60 of Ward 2, Manhattan, Kansas. Thence N00°25'33"W a distance of 360.36 feet along the Right-of-Way of Third Street to the Northeast corner of former Lot 15; thence N89°24'26"E a distance of 100.00 feet along the North line of former Lot 63 and also along the Southerly Right-of-Way line of a vacated alley in ordinance number 1844 and 2073. Thence N00°25'33"W a distance of 100.00 feet along the Easterly line of Lot 67 and part of a vacated alley per ordinance number 1844 and 2073, Ward 2, City of Manhattan. Thence S89°17'28"W a distance of 8.18 feet; Thence N00°08'49"W a distance of 540.54 feet; Thence E a distance of 174.49 feet to a point on the Westerly Right-of-Way of Highway 24. Thence N06°36'37"W a distance of 691.57 feet along said Right-of-Way line to a point on the Southerly Right-of-Way line of Street; Thence S89°24'45"W a distance of 315.38 feet to a point on the Right-of-Way line of Moro Street; Thence S89°30'53"W a distance of 174.49 feet along said Right-of-Way; Thence S00°08'31"E a distance of 1,502.89 feet to the Northerly Right-of-Way line of Leavenworth Street; Thence E a distance of 693.84 feet along said Right-of-Way; Thence W a distance of 25.01 feet; Thence N89°22'44"E a distance of 24.34 feet; Thence N00°43'33"W a distance of 132.70 feet; Thence S89°23'53"W a distance of 124.34 feet; Thence N00°36'15"W a distance of 7.51 feet; Thence W a distance of 149.49 feet to the Point of Beginning. Said tract of land is 22.31 Acres, more or less.

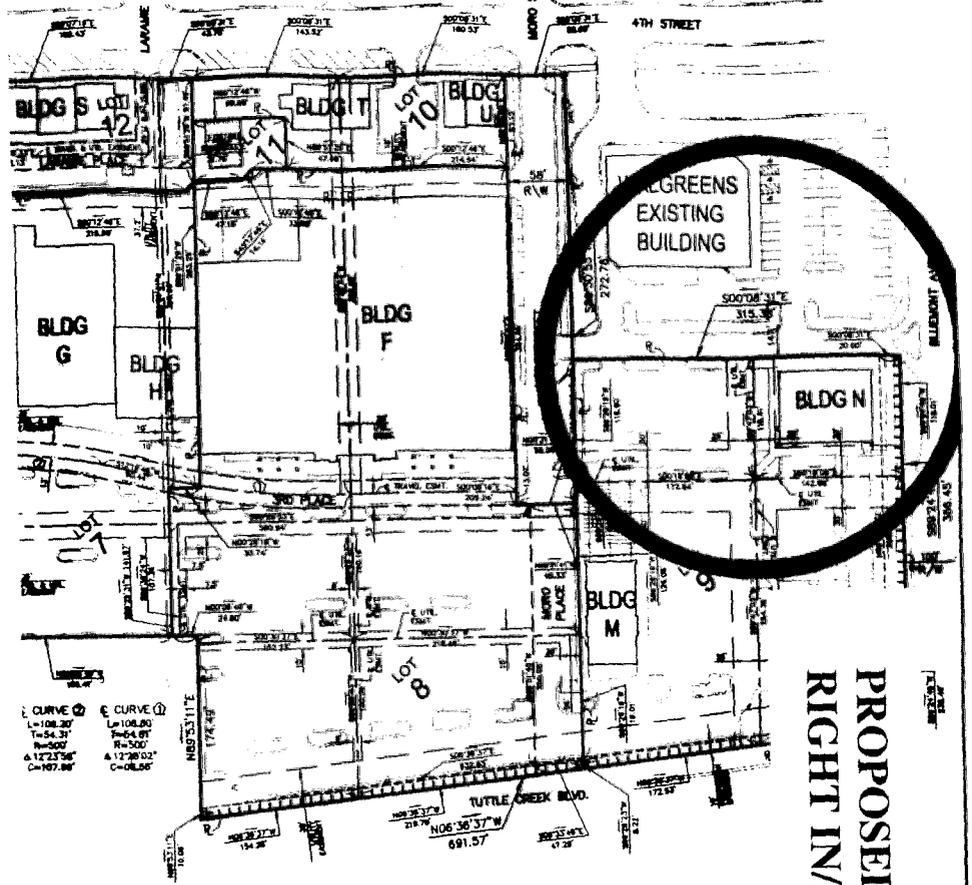
Therefrom, Lot 128, Lot 129 and the East 35' of Lot 130, Ward 2, City of Manhattan, Kansas, Containing an area of 0.47 Acres, more or less.

area included in the proposed Manhattan Marketplace Unit Two contains 22.31 Acres, more or less.

LEGEND

| | |
|----------|--|
| [Symbol] | EXISTING PROPERTY LINE |
| [Symbol] | EXISTING SECTION LINE |
| [Symbol] | EXISTING TELEVISION (UNDERGROUND) |
| [Symbol] | EXISTING ELECTRICAL (UNDERGROUND) |
| [Symbol] | EXISTING ELECTRICAL (OVERHEAD) |
| [Symbol] | EXISTING TELEPHONE (UNDERGROUND) |
| [Symbol] | EXISTING FIBER OPTIC |
| [Symbol] | EXISTING WATER (UNDERGROUND) |
| [Symbol] | EXISTING GAS (UNDERGROUND) |
| [Symbol] | EXISTING HIGH PRESSURE GAS (UNDERGROUND) |
| [Symbol] | EXISTING SAN SEW. MAIN (UNDERGROUND) |
| [Symbol] | EXISTING CHAIN LINK FENCE |
| [Symbol] | EXISTING MISC. FENCE (BARB WIRE, ETC.) |
| [Symbol] | PROPOSED WATER (UNDERGROUND) |
| [Symbol] | PROPOSED WALKWAY |
| [Symbol] | PROPOSED PERIMETER LOT LINES |
| [Symbol] | TRAVEL EASEMENT |
| [Symbol] | PEDESTRIAN & UTILITY EASEMENTS |
| [Symbol] | NO VEHICLE ACCESS |
| [Symbol] | 3/4" x 30" REBAR - CORNERS TO BE SET |
| [Symbol] | MONUMENT FOUND AS NOTED |
| [Symbol] | PROPOSED FIRE HYDRANT |
| [Symbol] | ADA ACCESSIBLE SIDEWALK RAMP |

MANHATTAN MARKETPLACE UNIT TWO PUD
APPROVED 2006



BENCHMARK INFORMATION
 FT115 PID KFO632
 LOCATED AT THE INTERSECTION OF 4TH STREET
 AND HOUSTON STREET AT THE ENTRANCE
 OF THE FEDERAL BUILDING.
 ELEVATION=1018.06 (NAVD 88)

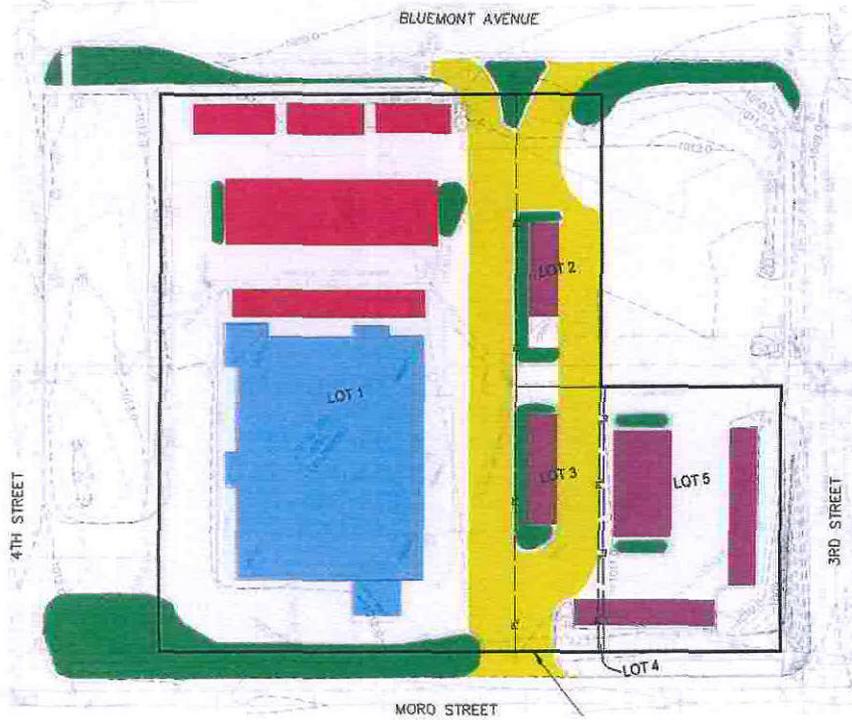
NOTES
 ALL SIDEWALK RAMPS WILL CONFORM WITH ADA
 AND THE CITY OF MANHATTAN STANDARDS.
 ALL CROSSWALKS SHALL BE MADE OF BRICK
 AND SHALL NOT BE PAINTED.
 ALL PROPOSED SIDEWALKS ARE CONCRETE AND
 SHALL BE 10' WIDE.
 SEE SHEET 701 UTILITIES PLAN FOR SPECIFIC
 UTILITY LOCATIONS.
 PUBLIC PLAZA AS AGREED IN FINAL DEVELOPMENT
 AGREEMENT.

PRELIMINARY DEVELOPMENT PLAN
MANHATTAN MARKETPLACE UNIT TWO
 PAGE 2 OF 2

MANHATTAN OFFICE
 2220 W. 10TH ST., SUITE 200
 MANHATTAN, KS 66502
 (785) 744-2222

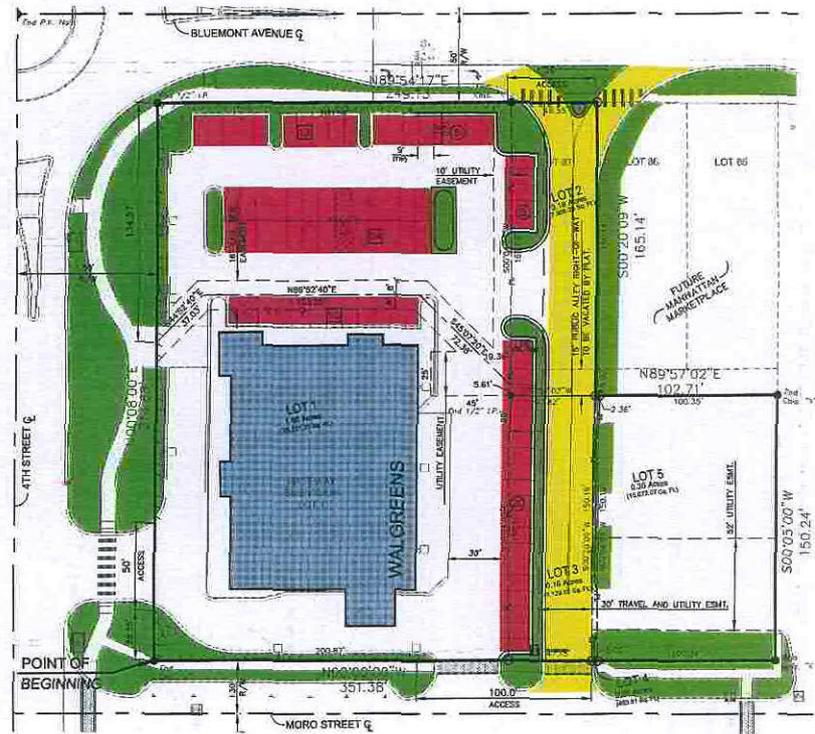
Existing Walgreens

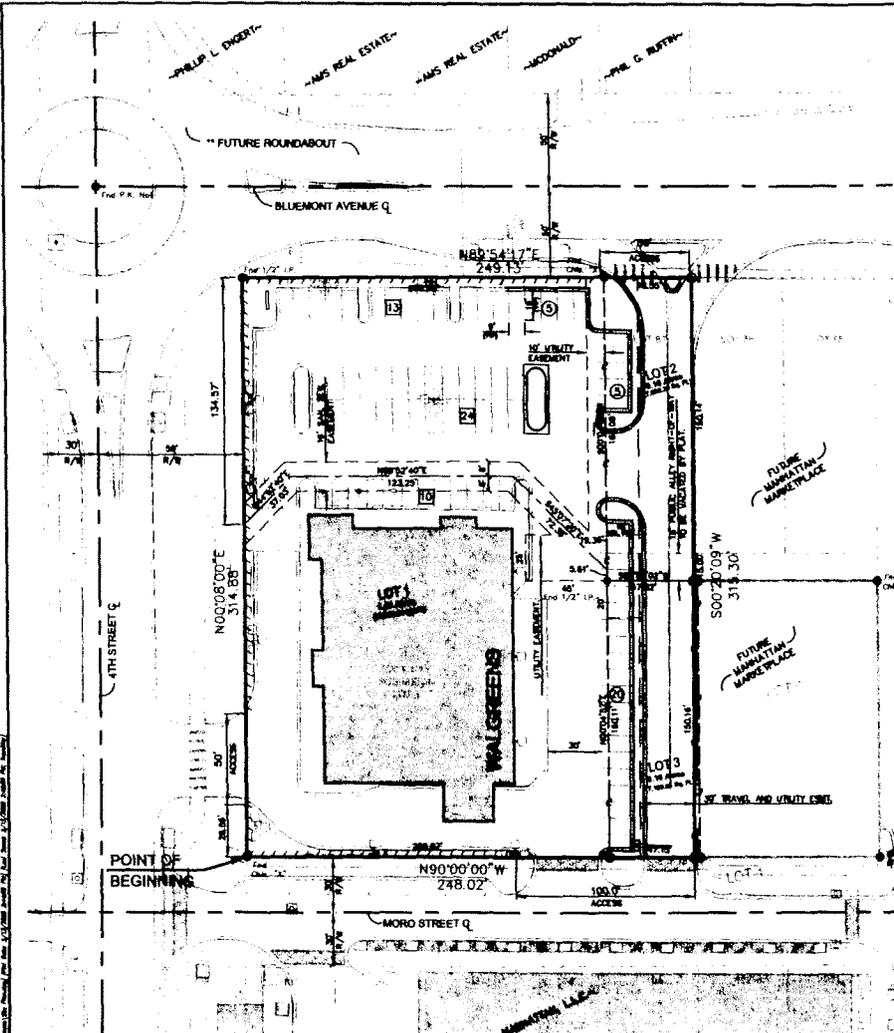
- Drive Lane
- Walgreens Parking
- Shared Parking



Amended Walgreens

- Drive Lane
- Walgreens Parking





PUD BOUNDARY LEGAL DESCRIPTION

A TRACT OF LAND COMPOSED OF LOTS 1, 2 AND 3, GATEWAY SUBDIVISION NO. 2, LOCATED IN THE CITY OF MANHATTAN, KANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AND BEGINNING AT THE SOUTHWEST CORNER OF SAID LOT 1; THENCE NORTH87°00'00"E, ALONG THE EASTERLY 80 FOOT ROW LINE OF 4TH STREET, A DISTANCE OF 314.88 FEET; THENCE NORTH54°17'17"E, ALONG THE SOUTHERLY 30 FOOT ROW LINE OF BELMONT AVENUE, A DISTANCE OF 248.13 FEET TO THE NORTHEAST CORNER OF SAID LOT 2; THENCE SOUTH70°20'00"W A DISTANCE OF 315.30 FEET TO THE SOUTHEAST CORNER OF SAID LOT 3; THENCE NORTH70°20'00"W, ALONG THE NORTHERLY 30 FOOT ROW LINE OF MORO STREET, A DISTANCE OF 248.02 FEET TO THE POINT OF BEGINNING. SAID TRACT OF LAND CONTAINS 1.80 ACRES, MORE OR LESS.

APPROVAL INFORMATION

APPROVED BY THE MANHATTAN URBAN AREA PLANNING BOARD THIS _____ DAY OF _____, 20____

PLANNING BOARD CHAIRPERSON _____

PLANNING BOARD SECRETARY _____

APPROVED AND ESTABLISHED AS A PLANNED UNIT DEVELOPMENT DISTRICT BY CITY ORDINANCE NO. 8203, DATED MARCH 6, 2001, AND AMENDED BY ORDINANCE NO. _____, DATED _____, 2008, AND PLACED ON FILE IN THE ZONING ADMINISTRATOR'S OFFICE.

ZONING ADMINISTRATOR _____

ALL DEVELOPMENT WITHIN THE WALGREENS COMMERCIAL PLANNED UNIT DEVELOPMENT SHALL CONFORM TO THE APPROVED AMENDED FINAL DEVELOPMENT PLAN AND ORDINANCE NO. 8203 DATED MARCH 6, 2001, AND ORDINANCE NO. _____, DATED _____, 2008. (AS MAY BE AMENDED).

- LEGEND**
- EXISTING PROPERTY LINE
 - EXISTING SECTION LINE
 - EXISTING TELEPHONE (UNDERGROUND)
 - EXISTING ELECTRICAL (UNDERGROUND)
 - EXISTING ELECTRICAL (OVERHEAD)
 - EXISTING TELEPHONE (UNDERGROUND)
 - EXISTING FIBER OPTIC
 - EXISTING WATER (UNDERGROUND)
 - EXISTING GAS (UNDERGROUND)
 - EXISTING HIGH PRESSURE GAS (UNDERGROUND)
 - EXISTING SAN. SEW. MAIN (UNDERGROUND)
 - EXISTING CHAIN LINK FENCE
 - EXISTING WISC. FENCE (BAMB. WIRE, ETC.)
 - PROPOSED WATER (UNDERGROUND)
 - PROPOSED GAS (UNDERGROUND)
 - PROPOSED HIGH PRESSURE GAS (UNDERGROUND)
 - PROPOSED SAN. SEW. MAIN (UNDERGROUND)
 - PROPOSED CHAIN LINK FENCE
 - PROPOSED WISC. FENCE (BAMB. WIRE, ETC.)
 - PROPOSED SIDEWALK
 - BUILDING PERIMETER
 - LOT PERIMETERS
 - TRAVEL & UTILITY EASEMENT
 - UTILITY EASEMENT
 - 3/4" x 30" REBAR - CORNERS TO BE SET
 - MONUMENT FOUND AS NOTED
 - PROPOSED FIRE HYDRANT

NOTES:

THE AMENDED WALGREENS NO. 1 COMMERCIAL PUD CONSIST OF LOTS 1, 2, & 3. LOTS 4 & 5 WILL BE A PART OF THE MANHATTAN MARKETPLACE PUD.

** THE PROPOSED ROUNDABOUT AS SHOWN WILL REQUIRE ADDITIONAL EASEMENT AT A LATER DATE.

CERTIFICATE OF THE CITY COMMISSION

APPROVED THIS _____ DAY OF _____, 2008

BOARD OF CITY COMMISSIONERS OF THE CITY OF MANHATTAN, KANSAS

_____, MAYOR ATTEST: _____ CITY CLERK

_____, CITY ATTORNEY

| NO. | DATE | REVISIONS |
|-----|------|-----------|
| | | |
| | | |
| | | |
| | | |

AMENDED SITE PLAN

WALGREENS NO. 1 COMMERCIAL PUD AMENDMENT AND FINAL DEVELOPMENT PLAN MANHATTAN, KANSAS

MANHATTAN OFFICE
1000 W. 13TH ST., SUITE 100
MANHATTAN, KS 66503
PHONE: 785-538-2202
FAX: 785-538-2383

FMS

OWNERSHIP INFORMATION

WE-7080 KS, L.L.C.,
a Delaware limited liability company
c/o Wachovia Development Corporation
One Wachovia Center, NC-00174
301 South College Street, 10th Floor
Charlotte, NC 28228

C100

LOT COVERAGE DATA
(ALL AREAS IN ACRES)

| LOT | TOTAL AREA | BUILDING FOOTPRINTS | | PARKING & DRIVING LANE | | STREETS (PRIVATE) | | ACTIVE RECREATIONAL | | OPEN SPACE/ LANDSCAPE | |
|-------|------------|---------------------|------------|------------------------|------------|-------------------|------------|---------------------|------------|-----------------------|------------|
| | | AREA | % OF TOTAL | AREA | % OF TOTAL | AREA | % OF TOTAL | AREA | % OF TOTAL | AREA | % OF TOTAL |
| LOT 1 | 1.45 | .364 | 25.1 | .887 | 61.8 | N/A | N/A | N/A | N/A | .190 | 13.1 |
| LOT 2 | 0.18 | N/A | N/A | .021 | 11.7 | .122 | 67.8 | N/A | N/A | .037 | 20.5 |
| LOT 3 | 0.16 | N/A | N/A | .047 | 28.4 | .097 | 60.8 | N/A | N/A | .016 | 10.0 |

PARKING INFORMATION
(PROPOSED WALGREENS)

| SYMBOL | DESCRIPTION | TOTAL NUMBER OF SPACES |
|--------|-------------------------------|------------------------|
| (20) | NUMBER OF PROPOSED '9' STALLS | 30 |
| (10) | NUMBER OF EXISTING '9' STALLS | 47 |
| | TOTAL STALLS | 77 |

LICENSED PROFESSIONAL ENGINEER

BRAD WALLER, P.E.
HWS CONSULTING GROUP
3226 KIMBALL AVE.
MANHATTAN, KS 66503
PHONE: 785-538-2202
FAX: 785-538-2383

SIDEWALK NOTES

ALL SIDEWALK RAMPS WILL CONFORM WITH ADA AND THE CITY OF MANHATTAN STANDARDS. ALL CROSSWALKS SHALL BE MADE OF BRICK AND SHALL NOT BE PAINTED.

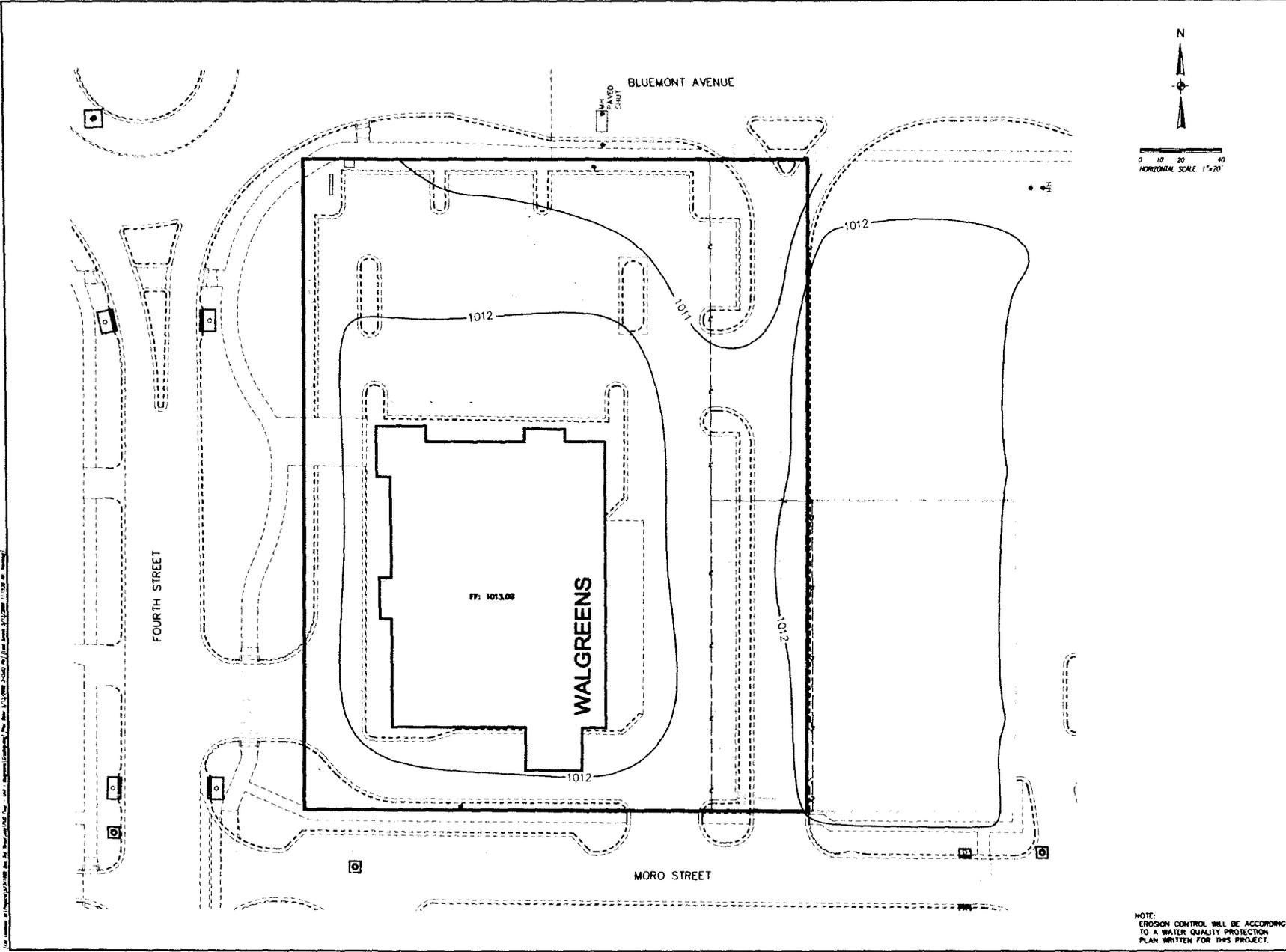
0 15 30 60
HORIZONTAL SCALE: 1"=30'

FLOOD PLAIN INFORMATION

THE TRACT SHOWN HEREON FALLS ON FEMA FIRM MAP PANEL NO 20181C0366E INLEY COUNTY, KANSAS. EFFECTIVE DATE NOVEMBER 19, 2003 ZONE X: AREAS OF 0.2% ANNUAL CHANCE FLOOD.

BENCHMARK INFORMATION

IT115 PND KFO832
LOCATED AT THE INTERSECTION OF 4TH STREET AND HOUSTON STREET AT THE ENTRANCE OF THE FEDERAL BUILDING.
ELEVATION=1018.88 (NAVD 88)



NOTE:
EROSION CONTROL WILL BE ACCORDING
TO A WATER QUALITY PROTECTION
PLAN WRITTEN FOR THIS PROJECT.

| | | | | | | |
|--|---|-----------------------|---|------------|------------------|-------------|
| <p>MANHATTAN OFFICE 1201 Commercial Ave. Manhattan, KS 66502 Phone: (785) 775-2500 www.hms.com</p> | | <p>GRADING</p> | <p>WALGREENS NO. 1 COMMERCIAL PUD AMENDMENT AND FINAL DEVELOPMENT PLAN MANHATTAN, KANSAS</p> | NO. | REVISIONS | DATE |
| <p>HMS</p> | <p>DATE: _____</p> <p>BY: _____</p> <p>SCALE: _____</p> | | | <p>NO.</p> | <p>REVISIONS</p> | <p>DATE</p> |
| <p>C300</p> | | | | | | |



17672 Laurel Park Drive North, Suite 400E
Livonia, MI 48152
248.262.1000 fax: 248.262.1814
www.schostak.com

APPLICATION

May 12, 2008

Mr. Steve Zilkie, Senior Planner
And Members of the Manhattan Urban Area Planning Board
City of Manhattan
1101 Poyntz Ave
Manhattan, KS 66502

RE: *Walgreens Store # 7060
325 Bluemont Avenue
Manhattan, KS 66502
Macomb Mall Holdings, LLC
WG - 7060 KS, LLC*

Dear Mr. Zilkie and Commissioners:

As landlord for the Walgreens in Manhattan, we wish to express our support for this amendment to the Gateway Subdivision No. 2 Planned Unit Development. We have been working with Dial, HWS, the city, and Walgreens corporate for over two years to accomplish this improvement to our adjoining properties. Walgreens engineering and operations approved this change in November 2006.

For our part, basically the transaction involves trading two lots with Dial (formerly owned by Long John Silvers) so that the drive lane and right-in-right-out can be moved slightly east. This will enable Walgreens to have better organized ingress and egress and also its own separate parking lot.

To summarize, there are several advantages to the new reconfiguration for all parties, including the city, as it provides:

- Better queuing at Bluemont for exiting both properties
- A more defined layout of the drive-lane which better separates the activities on each site
- More distinct parking lots for each party separated by the drive-lane
- Better truck movement throughout.
- Finally, Walgreens exchanges 43 spaces shared by both lots for 30 spaces (20 on the east and 10 new spaces on the northeast) on Walgreens' parcel.

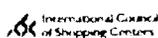
I regret that I am unable to be at the planning meeting to express my support for this amendment. However, if you have any questions regarding this request, please call me at (248) 262-1000 or 248-357-6154 (direct dial).

Thank you for your consideration of our request.

Sincerely,

SCHOSTAK BROTHERS & COMPANY, INC.


J. Miles McFee
Vice President and Director of Shopping Center Management



APPLICATION

Planned Unit Development Districts

1. *Whether the proposed amendment is consistent with the intent and purpose of the approved PUD, and will promote the efficient development and preservation of the entire PUD:* The property currently utilizes a right in/right out turn lane to access the Walgreens property. This entrance brings traffic directly into the parking lot. The proposed PUD shows the right in/right out being relocated to the east with the construction of a street specifically designed for traffic entering this site and the surrounding sites. Walgreens in turn gets additional parking in their lot approximately where the old right in/right out was located. Parking is modified so that Walgreens gets more dedicated parking spaces closer to their building. With the new configuration new landscaping will also be required.

The configuration of the lots is such in order to allow for the transfer of properties from Walgreens to Dial Realty Corp. Lot number 87 from the old Ward district is added to the original Gateway Subdivision PUD. This is added as it will be piece of land that will be transferred to Dial ownership. The following is a break down of the Lot numbers and explanation of each:

Lot 1 – Walgreens owned property that will remain with Walgreens.

Lots 2 & 3 – Dial owned property that will be transferred to Walgreens in the future.*

Lot 4 – Dial owned property that will remain Dial property.

Lot 5 – Walgreens owned property that will be transferred to Dial in the future.*

*Note: Lots 2 & 3 and Lot 5 have been sized equally in order to make the land swap identical sizes.

2. *Whether the proposed amendment is made necessary because of changed or changing conditions in or around the PUD, and the nature of such conditions:* With construction of the new Manhattan Marketplace Shops Development to the south, the traffic using this access point is expected to increase dramatically. This addition to the daily traffic utilizing the right in/right out creates the need for an access that functions more like a City street than a parking lot.
3. *Whether the proposed amendment will result in a relative gain to the public health, safety, convenience or general welfare, and is not granted solely to confer a special benefit upon any person:* Currently, traffic uses the right in/right out as a cut thru to get from Bluemont Avenue to Moro Street. This route allows traffic to avoid the 3rd Street and Bluemont Avenue intersection. The fast paced cut thru traffic violates driver

APPLICATION

expectations typically associated with parking lots, and cause potential right angle conflicts with Walgreens patrons using the building drive thru. The blind corner caused by the building creates an unsafe driving environment. Eliminating the cut through traffic in the Walgreens parking lot and moving it to its own drive will eliminate these conflicts, and allow the Walgreens parking lot to function solely as a parking lot.

APPLICATION

Rezoning C5 to PUD
Lot 87, Ward 2

Matters to be Considered When Changing Zoning Districts:

- A. *The existing use of the property:* The property is currently occupied by Walgreens and the vacant land left from the removal of the Long John Silvers building.
- B. *The physical and environmental characteristics of the property:* The site is flat, and currently occupied. The site is bordered by the following, Moro Street to the South, 4th Street to the West and Bluemont Ave. to the North.
- C. *The zoning and land uses of nearby properties:* The property is currently zoned PUD (C-4) and C-5, and is surrounded by C-5 districts to the north, east, and west. There is a small C-2 district located to the southwest. Nearby uses include retail developments on the north, south, and east. Large scaled retail exists to the east on the other side of Tuttle Creek Blvd.
- D. *The suitability of the subject property for the land uses to which it is restricted under current zoning:* This type of development is allowed to exist within the C-4 zoning district. The development team is pursuing a PUD to accommodate a Right In/Right Out facility which is a conditional use in this zoning district and with regards to further development as part of the Downtown Redevelopment Masterplan.
- E. *The character of the neighborhood:* Currently the property is occupied. The surrounding property is small scale retail ad residential. The property to the east of Tuttle Creek Blvd. is large format retail. Under the approved conceptual Downtown Redevelopment Masterplan, the surrounding adjacencies will be retail and mixed use shopping.
- F. *The compatibility of the proposed zoning district with nearby properties and the extent to which it may detrimentally affect those properties:* In addition to being in conformance with the conceptual masterplan for the redevelopment area, the property would be retail use which would be compatible with existing uses.
- G. *The conformance of the requested change to the adopted Comprehensive Plan for the City of Manhattan:* The 2003 Comprehensive Plan for the City of Manhattan shows the area in question as zoned "Central Core District." The proposed PUD is in compliance with this zoning district.
- H. *The zoning history of the subject property and the length of time it has remained vacant as zoned:* The property has been zoned PUD and C5 as shown in the Manhattan Zoning maps.

APPLICATION

- I. *Whether the proposed district would be consistent with the intent and purpose of the regulations:* The proposed PUD meets the intent and purpose of the regulations by being in compliance for the approved concept plan for the City of Manhattan's Downtown Redevelopment Masterplan.
- J. *The relative gain to the public health, safety, and welfare that a denial of the proposed amendment would accomplish, compared with the hardship imposed upon the individual owner that would result from such denial:* The existing right in/right out drive enters directly into the Walgreens parking. Traffic uses this drive as a cut thru from Bluemont Avenue to Moro Street. The approval of this PUD allows for the construction of a new right in/right out that utilizes a drive specifically designed for this thru traffic. With the increase of traffic to the Downtown Manhattan Marketplace Shops Development, this new drive provides a much safer route by the Walgreens parking lot.
- K. *Whether adequate sewer and water facilities, streets and other needed public services exist, or can be provided to serve the uses that would be permitted by the proposed zoning district:* Adequate infrastructure, including sewer and water, exists at the site.
- L. *Such additional matter as may apply in individual circumstances:* to be provided by City Staff.

REVIEW CERTIFICATE

STATE OF KANSAS)
COUNTY OF RILEY) SS:
This Plat has been reviewed and approved for filing pursuant to and in compliance with K.S.A. 58-2008 and with the requirements of Riley County Resolution No. 080205-18. No other warranties are extended or implied.

Approved: _____ Date: _____ License: _____
(name) (name)

CERTIFICATE OF THE CITY COMMISSION

STATE OF KANSAS)
COUNTY OF RILEY) SS:
The authorized public rights-of-way and easements, as shown on this plat, are hereby accepted by the City Commission of the City of Manhattan, Kansas, as of this _____ day of _____, 2008.
The City Commission of the City of Manhattan, Kansas hereby amends and agrees to the location of any and all public rights-of-way and easements that may be shown on this plat as of this _____ day of _____, 2008.
Board of City Commissioners of the City of Manhattan, Kansas

Attest:
_____, Mayor City Clerk

SURVEYOR'S CERTIFICATE

STATE OF KANSAS)
COUNTY OF RILEY) SS:
I, the undersigned do hereby certify that I am a Registered Land Surveyor in the State of Kansas with experience and proficiency in land surveying, that the hereinafter described property was surveyed and subdivided by me, or under my supervision, that all subdivisions regulations of the City of Manhattan, Kansas, have been complied with in the preparation of this plat, and that all measurements shown herein actually exist and their positions are correctly shown to the best of my knowledge and belief.
Given under my hand and seal of Manhattan, Kansas this _____ day of _____, A.D. 2008.
John P. Epper, PLS # 1305

MANHATTAN URBAN AREA PLANNING BOARD CERTIFICATE

STATE OF KANSAS)
COUNTY OF RILEY) SS:
Approved this _____ day of _____, 2008.
Manhattan Urban Area Planning Board
Manhattan, Kansas

Chairperson: _____
Attest: _____

CERTIFICATE OF THE REGISTER OF DEEDS

STATE OF KANSAS)
COUNTY OF RILEY) SS:
This instrument was filed for record on the _____ day of _____, A.D. 2008 at _____ o'clock _____, and duly recorded in Book _____ of Page _____
Register of Deeds
By _____ Deputy

NOTARY CERTIFICATE

STATE OF _____) SS:
BE IT REMEMBERED, that on this _____ day of _____, 2008, before me, the undersigned, a notary public in and for the County and State aforesaid, came _____ personally known to me to be the same person who executed the foregoing Owner's Certificate, and duly acknowledged that execution of the same.
IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my notarial seal on the day and year last above written.
REAL
Notary Public
My appointment expires _____

NOTARY CERTIFICATE

STATE OF _____) SS:
BE IT REMEMBERED, that on this _____ day of _____, 2008, before me, the undersigned, a notary public in and for the County and State aforesaid, came _____ personally known to me to be the same person who executed the foregoing Owner's Certificate, and duly acknowledged that execution of the same.
IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my notarial seal on the day and year last above written.
REAL
Notary Public
My appointment expires _____

OWNER'S CERTIFICATE

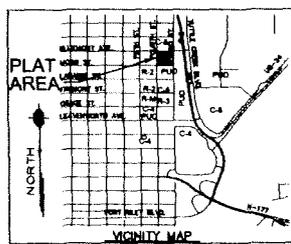
STATE OF KANSAS)
COUNTY OF RILEY) SS:
This is to certify that the undersigned are the owners of record of the land herein described on this plat, and that the undersigned have caused the same to be surveyed and subdivided as herein set forth.
The undersigned, as such owners, do hereby state that all street right-of-way as shown on this plat are hereby dedicated to the public. An easement and license to locate, construct, operate, inspect, replace and maintain, or authorize the location, construction, operation, inspection, replacement and maintenance of poles, wires, conduits, cables, gas, and sewer pipes, required drainage channels or structures, hard and impervious surfaces, or other structures necessary to carry out the function of the easement, upon the area reserved for easements on this plat, is also hereby dedicated to the public. When, and if, used on this plat, the term "utility" shall include, by way of example, but not limited to, sewer, water, gas, electricity, cable T.V. and telephone. When, and if, used on this plat, the term "travel" shall include all forms of travel, by whatever means, unless the term is limited by other words or phrases, such as, "passenger travel", etc. The undersigned acknowledge that pursuant to K.S.A. 12-406, the dedication of right-of-way and easements to the public constitutes a conveyance thereof to the City of Manhattan, Kansas. In trust, for the uses herein, expressed or intended.
Given under my hand at Manhattan, Kansas, this _____ day of _____, 2008.
Printed Name: _____ Bob Maloney, Manager
WG-7090 KI, L.L.C. Old-Manhattan LLC,
a Delaware limited liability company a Delaware limited liability company

LEGAL DESCRIPTION

A tract of land located in Ward 2, City of Manhattan, Kansas, which includes Lot 1, Gateway Subdivision No. 1 and a portion of Lot 87, Ward 2, and a portion of the existing 15 foot East-West Alleyway adjacent to said Lot 87.
Being more particularly described as follows:
Commencing and Beginning at the Southwest corner of Lot 1, Gateway Subdivision No. 1, Thence N00°08'00"E, along the Easement 80 foot ROW line of 4th Street, a distance of 314.88 feet; Thence N89°54'17"E, along the Southern 50 foot ROW line of Bluemont Avenue, a distance of 200.58 feet to the Northwest Corner of said Lot 87; Thence continuing N89°54'17"E, along the Southern 50 foot ROW line of Bluemont Avenue, a distance of 48.55 feet; Thence S00°20'08"W a distance of 150.14 feet to a point on the Southern line of said Lot 87 located 47.82 feet East of the Southwest corner of said Lot 87; or measured along the Southern line of said Lot 87, Thence continuing S00°20'08"W a distance of 15.00 feet; Thence N89°57'02"E a distance of 2.38 feet; Thence N89°57'02"E a distance of 100.35 feet; Thence S00°05'00"W, along the Western 30 foot ROW line of 3rd Street, a distance of 150.24 feet; Thence N90°00'00"W, along the Northern 30 foot ROW line of Moro Street, a distance of 100.34 feet; Thence continuing N90°00'00"W a distance of 3.02 feet; Thence continuing N90°00'00"W a distance of 47.15 feet; Thence continuing N90°00'00"W a distance of 200.87 feet to the Point of Beginning. Said tract of land contains 2.15 Acres, more or less.

LEGEND

- NO ACCESS
PLAT BOUNDARY/PROPERTY LINE
INTERIOR PROPERTY LINE
UTILITY EASEMENT
TRAVEL AND UTILITY EASEMENT
EXISTING LOT LINE & ROW
3/4"x 30" REBAR CORNERS TO BE SET W/ REBAR CAP
MONUMENT FOUND AS NOTED



ORDINANCE INFORMATION

All Development within the Ordinance's Commercial Planned Unit Development Shall Conform To The Approved Amended First Development Plan And Ordinance No. 8262 Dated March 6, 2007. Amended Ordinance No. _____ Dated _____, 2008. (or May Be Amended).

FLOODPLAIN INFORMATION

FPM Map Panel No. 2018108M; Riley County, Kansas effective date November 18, 2003. Zone X: Areas of 0.2% annual chance flood.

BENCHMARK INFORMATION

FT115 PFD KFD612 located at the intersection of 4th Street and Newton Street at the entrance of the Federal Building. Elevation=1018.88 (NAVD 88)

FINAL PLAT GATEWAY SUBDIVISION NO.2

AN ADDITION TO THE CITY OF MANHATTAN, KANSAS
HMS SURVEYORS GROUP
MANHATTAN OFFICE
3225 HUBBARD AVENUE
MANHATTAN, KS 66503
PH: 785-538-2502
FX: 785-538-2593
www.hms.com
hewston@hms.com
APRIL 2008



W:\Projects\03741025\03741025.dwg User: Jm [Redacted] Date: 4/7/2008 1:28:00 PM DWT

~~Hill moved that the Planning Board table the item to the June 2, 2008 Manhattan Urban Area Planning Board meeting.~~

~~The motion was seconded by Reynard and passed on a vote of 5-0.~~

~~Kratochvil asked whether staff was comfortable that the application would be ready for the June 2nd meeting. Zilkie said he was pretty comfortable that it would be ready.~~



2. **A PUBLIC HEARING TO CONSIDER AN AMENDMENT OF THE FINAL DEVELOPMENT PLAN AND ORDINANCE NO. 6203 OF THE FINAL DEVELOPMENT PLAN OF THE WALGREENS PUD; AND, REZONE LOT 87, WARD 2, FROM C-5, HIGHWAY SERVICE COMMERCIAL DISTRICT, TO PUD, COMMERCIAL PLANNED UNIT DEVELOPMENT DISTRICT. LOT 87 WILL BECOME A PART OF THE WALGREENS PUD TO ACCOMMODATE A PROPOSED RELOCATION OF THE EXISTING RIGHT IN/RIGHT OUT ON BLUEMONT AVENUE AND OTHER IMPROVEMENTS TO THE WALGREENS SITE GENERALLY LOCATED SOUTH OF BLUEMONT AVENUE BETWEEN N. 4TH STREET AND N. 3RD STREET AND NORTH OF MORO STREET. (OWNERS: DIAL MANHATTAN LLC; AND WG-7060 KS, LLC, A DELAWARE LIMITED LIABILITY COMPANY, C/O WACHOVIA DEVELOPMENT CORPORATION/APPLICANT: DIAL MANHATTAN LLC AS AGENT FOR MACOMB MALL HOLDING LLC, SCHOSTAK BROTHERS AND CO.)**

Zilkie presented the staff report and recommended approval based on the findings in the Staff Report with three (3) conditions.

Ham opened the Public Hearing.

Bob Welstead, Dial Realty, said they had been working with Walgreen's for 2 to 3 years. Welstead said the new configuration will be safer for the Walgreen's drive-thru and better with respect to parking. Welstead said the Walgreen's engineering department had given approval of the relocation in late 2006.

Ham closed the Public Hearing with no one else speaking.

Hill said that not many times is there a second chance to improve a less than ideal situation and said he appreciated Dial's efforts to accomplish this.

Hill moved that the Board recommend approval of the proposed Amendment to Final Development Plan of the Walgreens No. 1, Commercial Planned Unit Development; and, the rezoning of Lot 87, Ward 2, from C-5, Highway Service Commercial District, to PUD, Commercial Planned Unit Development District, with the following conditions:

1. Landscaping and irrigation shall be provided pursuant to a Landscaping

Performance Agreement between the City and the owner, which shall be entered into prior to approval of the plans for the right in/right out along Bluemont Avenue.

2. All landscaping and irrigation shall be maintained in good condition.
3. The Final Development Plan for Lot 1, Lot 2, and Lot 3 shall be subject to the conditions of approval of Ordinance No. 6203.

Meredith seconded the motion, which passed on a vote of 5-0.

3. ~~A PUBLIC HEARING TO CONSIDER THE REZONING OF THE PROPOSED MCCALL CATS COMMERCIAL PLANNED UNIT DEVELOPMENT, AN APPROXIMATE FOUR (4) ACRE TRACT OF LAND FROM C-5, HIGHWAY SERVICE COMMERCIAL DISTRICT, C-6, HEAVY COMMERCIAL DISTRICT, AND, PUD, COMMERCIAL PLANNED UNIT DEVELOPMENT DISTRICT, TO PUD, COMMERCIAL PLANNED UNIT DEVELOPMENT DISTRICT, GENERALLY LOCATED NORTHWEST OF THE INTERSECTION OF MCCALL ROAD AND HAYES DRIVE, A PORTION OF WHICH FRONTS ON HOSTETLER DRIVE. THE PROPOSED COMMERCIAL PUD WILL CONSIST OF A BROAD RANGE OF HIGHWAY SERVICE COMMERCIAL USES ON THREE (3) LOTS. (OWNERS/APPLICANTS: DW, LLC (DAVE DREILING); S & B MOTELS, INC. (STAN WEILERT); AND, WILDCAT CUSTARD, LLC (RON OBERG).)~~

~~Zilkie presented the Staff Report and recommended approval based on the findings in the Staff Report with ten (10) conditions.~~

~~Kratochvil asked if there was enough right of way on McCall Road for left turn lanes into the development. Zilkie noted that McCall is improved to an urban standard and said he would defer to the consultant or City Engineering staff to answer the question about the left turn lanes.~~

~~Ham opened the Public Hearing.~~

~~Jeff Hancock, consultant with Sloan Meier Hancock, represented the applicants. Hancock said that McCall Road is 5 lanes with two way center left turn lanes rather than independent left turn lanes. Hancock noted how they have consolidated several existing driveways on McCall.~~

~~Kratochvil thanked Hancock for the clarification.~~

~~Ham closed the Public Hearing with no one else speaking.~~

~~Meredith moved that the Board recommend approval of the proposed rezoning of McCall Cats PUD from C-5, Highway Service Commercial District, C-6, Heavy Commercial District, and PUD, Commercial Planned Unit Development District, to~~

**PROJECT CHRONOLOGY
AMEND WALGREENS PUD
FINAL PLAT GATEWAY SUBDIVISION NO. 2
REZONE LOT 87 WARD 2**

Lot 87

| | |
|-------------|--|
| Late 1800's | Lots 87 established as part of original town plat. |
| 1926-1940 | A, First Dwelling District. |
| 1940-1954 | B, Second Dwelling District. |
| 1954-1965 | B, Second Dwelling District. |
| 1965-1969 | A, Single and Two Family Dwelling District. |
| 1969-2008 | C-5 District. |

Walgreens PUD

| | |
|-------------------|--|
| 1969-Present | R-2 District, and C-5 District for Lot 88 and Lots 93-96. |
| February 5, 2001 | Manhattan Urban Area Planning Board recommends approval of rezoning from C-5 and R-2 Districts to PUD. |
| February 20, 2001 | City Commission approves first reading. |
| March 6, 2001 | City Commission approves Ordinance No. 6203. |
| April 16, 2001 | Planning Board approved Final Development Plan |
| May 7, 2001 | Planning Board approves Final Plat of the Gateway Subdivision No. 1. |
| May 15, 2001 | City Commission considers accepting easements and rights-of-way as shown on the Final Plat of the Gateway Subdivision No. 1. |

May 19, 2008

Planning Board recommends approval of the rezoning of Lot 87 to PUD, amending the Final Development Plan of the Walgreens PUD and Ordinance No. 6203, and approval of the Final Plat of Gateway Subdivision No. 2.

June 3, 2008

City Commission approves first reading of an ordinance rezoning Lot 87 and amending the Final Development Plan and Ordinance No. 6203.

ProjectChronology } WalgreensandgatewaySubdivisionNo2