

**MINUTES**  
**MANHATTAN BOARD OF ZONING APPEALS**  
**City Commission Room, City Hall**  
**1101 Poyntz Avenue**  
**Wednesday, January 14, 2015**  
**7:00 PM**

MEMBERS PRESENT: Harry Hardy, Chairperson; Connie Hamilton, Vice Chairperson; Angie Danner; Catherine Lavis

MEMBERS ABSENT: Ray Thompson

STAFF PRESENT: Chase Johnson, Planner

**CONSIDER THE MINUTES OF THE DECEMBER 10, 2014 BOARD OF ZONING APPEALS MEETING.**

Lavis moved to approve the December 10, 2014 minutes which was seconded by Hamilton and passed with a vote of (4-0).

**A PUBLIC HEARING TO CONSIDER A CONDITIONAL USE UNDER THE TERMS OF THE MANHATTAN ZONING ORDINANCE OF THE CITY OF MANHATTAN, KANSAS, TO ALLOW FOR A PROPOSED EXPANSION OF AN EXISTING RECYCLING CENTER USE LOCATED AT 801 FAIR LANE, IN THE LM-SC, LIGHT MANUFACTURING-SERVICE COMMERCIAL DISTRICT. (APPLICANT / OWNER: HOWIE'S ENTERPRISE, LLC – GREG WILSON AND HOWARD WILSON)**

**A PUBLIC HEARING TO CONSIDER AN EXCEPTION UNDER THE TERMS OF THE MANHATTAN ZONING ORDINANCE OF THE CITY OF MANHATTAN, KANSAS, TO ALLOW FOR THE REDUCTION OF THE MINIMUM REQUIRED FRONT YARD SETBACK FROM TWENTY-FIVE (25) FEET TO ZERO (0) FEET FOR PROPOSED OFF-STREET PARKING FOR PROPERTY LOCATED AT 801 FAIR LANE, IN THE LM-SC, LIGHT MANUFACTURING-SERVICE COMMERCIAL DISTRICT. (APPLICANT / OWNER: HOWIE'S ENTERPRISE, LLC – GREG WILSON AND HOWARD WILSON)**

Hamilton motioned that the Board remove the two (2) items from the Table and conduct a public hearing. The motion was seconded by Danner and passed on a vote of (4-0).

Johnson presented the staff reports for the two (2) items with the recommendation of approval for both items.

Hardy opened the public hearing.

Greg Wilson, the applicant and owner of Howie's Recycling, addressed the Board to answer questions.

No one asked any questions.

Hardy closed the public hearing.

Hamilton voiced her support for the items.

The Board made the following findings of fact for the Conditional Use at 801 Fair Lane.

**PRESENT USE:** Vacant lots

### **STANDARDS FOR A CONDITIONAL USE**

**A. Compliance with all applicable regulations:** Other than the Exception request for the reduction of the front yard setback along Fair Lane, the subject site complies with all applicable regulations.

**B. Probable effect on adjacent properties:** The subject site and surrounding properties to the north and east (north of the railroad right-of-way) are zoned LM-SC, Light Manufacturing – Service Commercial District. To the south of the subject site are properties zoned R-2, Two-Family Residential District. To the east, north of the railroad right-of-way, property is zoned I-3, Light Industrial Park District. The area is a mix of service commercial uses, manufacturing uses, nonconforming residential uses and vacant lots.

The applicants have operated the recycling center at 625 S. 10<sup>th</sup> Street since 1993. The proposed recycling center expansion will consist of a metal industrial building used for the storage of vehicles, equipment and recyclables. The proposed expansion of the recycling center should have minimal adverse effects on adjacent properties, especially since the expanded use will be contained within the proposed building and tie into the existing screened storage area located to the west of the subject site. This should limit any incompatibilities with adjacent properties. Similar uses are located near the subject site including the City's public works maintenance facility to the direct east. As part of the Conditional Use application, a neighborhood meeting was held on September 23, 2014 at Howie's Recycling & Trash Services. According to the meeting summary, no one attended the meeting.

**C. Domination by use over neighboring properties:** The recycling center has existed since 1993. In past years, the Community Development Department has received complaints about blowing trash from the recycling center. The expansion of the use will be enclosed in the proposed building, which should greatly reduce the amount of debris that blows away from the subject site.

- 1. Location, nature, and height of physical improvements:** Currently the subject site is vacant land that was once occupied by several trailer homes and a portion of the S. 8<sup>th</sup> Street right-of-way. The building proposed on the subject site is an approximate

11,900 square foot metal building that will be used to store company vehicles, equipment and recyclables. The height of the proposed building is approximately thirty-two (32) feet, which due to the size of the lot, should not dominate over adjacent properties.

2. **Landscaping and screening:** Currently the subject site is vacant with the only physical improvements being the existing screening fences along the north and south property lines. The proposal is to pave the area and construct a metal industrial building on the site. The existing eight (8) foot tall concrete “bunker” block or formed concrete wall is proposed to be extended on the south side of the subject site. The wall will tie into the proposed building along the south side of the structure. Along the north property line along Fair Lane, the existing metal siding fence will be adjusted and extended to tie into the new proposed building. The extension of the proposed fence and metal building should provide adequate screening for the expanded recycling center. The LM-SC Light Manufacture-Service Commercial District regulations require the entire front yard of any lot to be landscaped. An Exception has been requested to reduce the front yard setback along Fair Lane from twenty-five (25) feet to zero (0) feet to accommodate the proposed industrial building.

**D. Adequate provision of parking and loading:**

The proposed Conditional Use would be an extension of the recycling center located to the west of the subject site. The proposed expansion does not impact the existing parking and loading areas. Patron loading/unloading of recyclables will continue to occur on the west end of the property, off of South 10<sup>th</sup> Street. Loading docks for trucks are present on both the east and west side of the existing building and are provided with the proposed metal building on the subject site. Existing off-street parking is located along the north side of the current recycling center facility and consists of a 90-degree configuration. A minimum of six (6) off-street parking spaces are required for the proposed building use. This was derived by using the parking requirements for Warehouses, storages, and wholesale establishments which is: one (1) parking space for each 2,000 square feet of floor area. ( $11,900 \text{ sf} / 2,000 \text{ sf} = 5.95$ ).

The applicant has applied for an Exception and Variance request for a proposed parking lot located at 611 S 9th Street, generally 200 feet west of the subject site, that contains twenty-four (24) parking stalls. According to the applicant, the additional parking will be used for employee parking and to satisfy the parking requirement for the new building (*see the 611 S 9th Street property Staff Reports*).

**E. Adequate provision of drainage, and other public utilities:**

Adequate sanitary sewer and water services currently exist for the existing recycling center use. Stormwater runoff will be collected in the concrete alley to the north of the subject site and then directed to existing storm sewer inlets in the area.

**F. Adequate provision of access:** Access to the existing recycling center is primarily from South 10<sup>th</sup> Street and Fair Lane. Access to the subject site will be off of Fair Lane coming from either South 10<sup>th</sup> Street or Juliette Avenue.

**PRESENT USE:** Vacant lots

Hamilton motioned that the Board approve the CONDITIONAL USE to allow for a proposed expansion of an existing recycling center use in the LM-SC, Light Manufacturing-Service Commercial District, with the following conditions of approval:

1. The Conditional Use Permit shall only apply to the recycling center expansion as outlined in the application documents and site plan.
2. All outdoor storage shall be completely enclosed with sight obscuring screening as required by the use limitations outlined in Section 4-303(E).
3. Future expansions shall require a new Conditional Use Permit.
4. The Exception request for the reduction to the front yard setback along Fair Lane shall be approved.
5. All applicable permits shall be obtained.

Lavis seconded the motioned which passed with a vote of (4-0).

The Board made the following findings of fact for the Exception at 801 Fair Lane.

**PRESENT USE:** Vacant lots

**COMPLIANCE WITH ALL APPLICABLE REGULATIONS:** The subject site complies with all applicable regulations, other than for what the Exception and Conditional Use requests are for.

**PROBABLE EFFECT ON ADJACENT PROPERTIES:** The subject site and surrounding properties to the north and east (north of the railroad right-of-way) are zoned LM-SC, Light Manufacturing – Service Commercial District. To the south of the subject site are properties zoned R-2, Two-Family Residential District. To the east, north of the railroad right-of-way, property is zoned I-3, Light Industrial Park District. The area is a mix of service commercial uses, manufacturing uses, nonconforming residential uses and vacant lots.

A zero (0) foot front yard setback has already been established along Fair Lane. In April, 2008, an Exception was approved to allow the fence with the recycling center to be zero (0) feet from S. 9<sup>th</sup> Street. An additional Exception was approved in May, 2012 to allow for the extension of the fence during an expansion to the recycling center. In addition, there are other structures and paved areas located in the required front yard setbacks along Fair Lane. This includes the City's public works maintenance facility located to the direct east of the subject site. Fair Lane is classified as a local street but appears more like an alleyway, so structures and paved surfaces located in the required front yard is common in the area.

**EFFECTS ON PUBLIC HEALTH, SAFETY, MORALS, ORDER, CONVENIENCE, PROSPERITY, OR GENERAL WELFARE:** There should be minimum affects on the public health, safety or general welfare. As previously mentioned, similar structures and paved surfaces are located in the required front yard along Fair Lane, so the proposed building and

paved area should not substantially encroach on the street or change the visual effect of the setback lines. The location of the proposed industrial building in the front yard setback will not impact platted easements or any vision triangles.

**THE STRICT APPLICATION OF THESE REGULATIONS IS UNREASONABLE, OR UNNECESSARY WHEN ALL FACTS AND CIRCUMSTANCES ARE CONSIDERED:**

The strict application of the front yard setback regulations would not allow the industrial building to be constructed as proposed. The entire front yard would be required to be landscaped open space except for any entrance and exit drives. The building would need to be redesigned or reduced under strict application. There appears to be enough area located on the east side of the subject site to accommodate the building if redesigned, however the proposed layout is to maximum the amount of bay doors and to provide more area to accommodate circulation for large company vehicles.

Considering these factors and that the location of the proposed building should not adversely impact the adjacent properties or the general public; it appears that the strict application of the front yard setback regulation is unreasonable.

Hamilton motioned that the Board approve the Exception to allow for the reduction of the minimum required front yard setback from twenty-five (25) feet to zero (0) feet for a new proposed industrial building and related paved area associated with the expansion of an existing recycling center, located in the LM-SC, Light Manufacturing-Service Commercial District, with the following conditions of approval:

1. The Exception shall only apply to the proposed industrial building as outlined in the application documents and site plan.
2. The Conditional Use to allow the recycling center expansion shall be approved.
3. The subject site shall be constructed as proposed.

Lavis seconded the motion which passed with a vote of (4-0).

**A PUBLIC HEARING TO CONSIDER A VARIANCE UNDER THE TERMS OF THE MANHATTAN ZONING ORDINANCE OF THE CITY OF MANHATTAN, KANSAS, TO ALLOW FOR THE REDUCTION OF THE MINIMUM REQUIRED LOT AREA FROM 20,000 SQUARE FEET TO APPROXIMATELY 10,400 SQUARE FEET FOR A PROPOSED OFF-STREET PARKING LOT LOCATED AT 611 S. 9<sup>TH</sup> STREET, IN THE LM-SC, LIGHT MANUFACTURING-SERVICE COMMERCIAL DISTRICT. (APPLICANT / OWNER: HOWIE'S ENTERPRISE, LLC - GREG WILSON AND HOWARD WILSON)**

**A PUBLIC HEARING TO CONSIDER AN EXCEPTION UNDER THE TERMS OF THE MANHATTAN ZONING ORDINANCE OF THE CITY OF MANHATTAN, KANSAS, TO ALLOW FOR THE REDUCTION OF THE MINIMUM REQUIRED FRONT YARD SETBACK FROM TWENTY-FIVE (25) FEET TO ZERO (0) FEET;**

**AND TO ALLOW FOR THE REDUCTION OF THE MINIMUM REQUIRED SIDE YARD SETBACKS FROM SIX (6) FEET TO ZERO (0) FEET ALL FOR A PROPOSED OFF-STREET PARKING LOT FOR PROPERTY LOCATED AT 611 S. 9<sup>TH</sup> STREET, IN THE LM-SC, LIGHT MANUFACTURING-SERVICE COMMERCIAL DISTRICT. (APPLICANT / OWNER: HOWIE'S ENTERPRISE, LLC – GREG WILSON AND HOWARD WILSON)**

Hamilton motioned that the Board remove the two (2) items from the Table and conduct a public hearing. The motion was seconded by Danner and passed on a vote of (4-0).

Johnson presented the staff reports for the two (2) items with the recommendation of approval for both items.

Hardy opened the public hearing.

No one spoke.

Hardy closed the public hearing.

Board members stated they had no concerns and supported the items.

The Board made the following findings of fact for the Variance at 611 S. 9<sup>th</sup> Street.

**PRESENT USE:** Vacant Lot

**CONDITIONS UNIQUE TO THE PROPERTY:** The subject site is now an interior lot after the vacation of the S. 9<sup>th</sup> Street right-of-way, with a front yard along Fair Lane and side yards located along the east and west lot lines. Since the site is an interior lot and fronts two (2) streets it is considered a through lot. In the case of through lots with one side abutting an arterial street, the yard abutting the street that does not give access to the lot shall be considered the rear yard. For the subject site, the area along Fort Riley Boulevard is considered the rear yard.

The subject site was platted with the original plat of Manhattan in the late 1800's. The subject site is one of the last original ward lots located within the LM-SC, Light Manufacture-Service Commercial District. The majority of the lots within the district have been divided up and assembled since the original platting. Prior to 2000, the subject site was zoned R-2, Two-Family Residential District, which required a minimum lot area of 7,500 square feet. In accordance with the construction of Ft. Riley Boulevard, the north twenty (20) feet of the subject site was conveyed to the City of Manhattan in 1985, leaving the site approximately 6,500 square feet. Under the R-2, District regulations, Lot 208, Ward 5 was a legal nonconforming lot in regards to total area after the right-of-way was acquired by the City. This condition was not created by an action of the applicant.

Currently, the subject site is approximately 10,400 square feet in area after the recent vacation

of 9<sup>th</sup> Street right-of-way. The minimum lot area in the LM-SC District for lots that abut a limited access arterial is 20,000 square feet.

**PROBABLE EFFECT ON ADJACENT PROPERTIES:** The subject site and surrounding properties to the south, east and west are zoned LM-SC, Light Manufacturing-Service Commercial District. To the southwest of the subject site is property zoned I-3, Light Industrial District. Farther to the south, across the railroad right-of-way is property zoned R-2, Two-Family Residential District; and to the north, across Fort Riley Boulevard is property zoned R-2/TNO, Two-Family Residential District with Traditional Neighborhood Overlay. The area is a mix of service commercial uses, manufacturing uses and nonconforming residential uses and vacant lots.

The subject site will consist of off-street parking associated with Howie's recycling facility employees. There are no structures or other improvements that are proposed to be developed on the site. Since the off-street parking is affiliated with Howie's recycling employees instead of a service commercial use, minimal impact is expected on adjacent properties. Employees are expected to park for longer periods of time related to working hours as opposed to the regular traffic generated from other service commercial uses allowed within the LM-SC District. In addition, a mixture of high intensity commercial and industrial traffic is currently common along Fair Lane and within the LM-SC District.

**UNNECESSARY HARDSHIP FROM STRICT APPLICATION OF REGULATIONS:** Before the vacation of S. 9<sup>th</sup> Street, the existing lot size was a condition created by previous owners of the property and not by the applicant. The applicant has increased the lot size with the acquisition of the S. 9<sup>th</sup> Street right-of-way; however it still does not meet the minimum required lot area. The subject site could not be utilized for any permitted or conditional use without obtaining a Variance to the minimum lot area.

**EFFECTS ON PUBLIC HEALTH, SAFETY, MORALS, ORDER, CONVENIENCE, PROSPERITY, OR GENERAL WELFARE:** Minimal impact on the public is anticipated with the approval of the Variance. The proposed off-street parking will not impact platted easements and there are no other improvements that are proposed to be developed on the site. There are similar off-street parking areas located along Fair Lane, some of which have affiliated service commercial uses. Access to commercial and industrial lots off of Fair Lane is currently expected in the LM-SC District and the intensity of constant traffic for the proposed off-street parking lot should be minimal. The additional off-street parking could be seen as a benefit to the recycling public by allocating more area for patrons to load/unload safely during visits.

**RELATIONSHIP TO INTENT OF REGULATIONS:** The LM-SC, Light Manufacturing-Service Commercial District, requires a minimum lot area of 20,000 square feet for all lots that abut a limited access arterial, a railroad, or that obtain access exclusively from an alley. The minimum lot area requirement for lots that abut a limited access arterial was intended to apply to those lots bounded by an alley, Ft, Riley Boulevard and have no access to side streets.

Those lots would be only accessible from an alley. The mixture of commercial and industrial traffic in alleys with no street access was a concern when the regulations were adopted.

Since the proposed off-street parking does not include any structures or other uses besides parking associated with Howie's recycling employees, the proposed Variance meets the intent of the regulations. If the proposed Variance was associated with a different use or a combination of uses, the proposed Variance could have an adverse affect on adjacent property or the public, therefore not meet the intent of the minimum lot area of the LM-SC, Light Manufacturing-Service Commercial District.

Lavis motioned that the Board approve the Variance under the terms of the Manhattan Zoning Ordinance of the City of Manhattan, Kansas, to allow for the reduction of the minimum required lot area from 20,000 square feet to approximately 10,400 square feet for a proposed off-street parking lot located in the LM-SC, Light Manufacturing-Service Commercial District, with the following conditions of approval:

1. The Variance shall only apply to the proposed off-street parking associated with the recycling center as outlined in the application documents and site plan.
2. The Exception request for the reduction to the front and side yard setbacks shall be approved.
3. The proposed landscaping and screening shall be maintained in good condition.
4. All applicable permits shall be obtained.

Danner seconded the motion which passed on a vote of (4-0).

The Board made the following findings of fact for the Exception at 611 S. 9<sup>th</sup> Street.

**PRESENT USE:** Vacant lots

**COMPLIANCE WITH ALL APPLICABLE REGULATIONS:** The subject site currently does not conform to the minimum lot size in the LM-SC, Light Manufacture-Service Commercial District. The applicants have concurrently applied for a Variance to reduce the minimum lot area. Other than for what the Exception and Variance requests are for, the subject site complies with all applicable regulations.

**PROBABLE EFFECT ON ADJACENT PROPERTIES:** The subject site and surrounding properties to the south, east and west are zoned LM-SC, Light Manufacturing-Service Commercial District. To the southwest of the subject site is property zoned I-3, Light Industrial District. Farther to the south, across the railroad right-of-way property is zoned R-2, Two-Family Residential District; and to the north, across Fort Riley Boulevard is property zoned R-2/TNO, Two-Family Residential District with Traditional Neighborhood Overlay. The area is a mix of service commercial uses, manufacturing uses, nonconforming residential uses and vacant lots.

A zero (0) foot front yard setback has already been established along Fair Lane. In addition, there are other off-street parking areas and structures located in the required front yard and

side yard setbacks along Fair Lane. Fair Lane is classified as a local street but appears more like an alleyway, so parking spaces and other paved surfaces located in the required yards is common in the area.

**EFFECTS ON PUBLIC HEALTH, SAFETY, MORALS, ORDER, CONVENIENCE, PROSPERITY, OR GENERAL WELFARE:** There should be minimum affects on the public health, safety or general welfare. As previously mentioned, similar parking areas and other paved surfaces are located in the required front and side yards along Fair Lane. The location of the off-street parking in the front and side yard setbacks will not impact platted easements or any vision clearance triangles. The design of the off-street parking conforms to the City's off-street parking standards. The additional off-street parking could be seen as a benefit to the recycling public by allocating more area for patrons to load/unload safely during visits.

**THE STRICT APPLICATION OF THESE REGULATIONS IS UNREASONABLE, OR UNNECESSARY WHEN ALL FACTS AND CIRCUMSTANCES ARE CONSIDERED:**

The strict application of the front yard setback regulations would not allow the off-street parking to be constructed as proposed. The entire front and side yards would be required to be landscaped open space except for any entrance and exit drives. The off-street parking would need to be redesigned and reduced under strict application. There appears to be enough area to accommodate approximately fifty percent (50%) of the proposed parking spaces. However, the applicant has requested the Exceptions to maximize the number of off-street parking for employees in order to allocate more area for patrons to load/unload during visits to the recycling center.

Considering these factors and that the location of the off-street parking should not adversely impact the adjacent properties or the general public; it appears that the strict application of the front yard setback regulation is unreasonable.

Lavis motioned that the Board approve the Exception to allow for the reduction of the minimum required front yard setback from twenty-five (25) feet to zero (0) feet; and to allow for the reduction of the minimum required side yard setbacks from six (6) feet to zero (0) feet all for a proposed off-street parking lot for property in the LM-SC, Light Manufacturing-Service Commercial District, with the following conditions of approval:

1. The Exception shall only apply to the proposed off-street parking associated with the recycling center as outlined in the application documents and site plan.
2. The Variance request for the reduction of the minimum lot area shall be approved.
3. The subject site shall be constructed as proposed.
4. All applicable permits shall be obtained.

Danner seconded the motion which passed on a vote of (4-0).

**A PUBLIC HEARING TO CONSIDER A CONDITIONAL USE UNDER THE TERMS OF THE MANHATTAN ZONING ORDINANCE OF THE CITY OF MANHATTAN, KANSAS, TO ALLOW FOR A PROPOSED ACCESSORY ADMINISTRATIVE BUILDING ASSOCIATED WITH AN EXISTING CONDITIONAL USE LOCATED AT 1213 BAKERS WAY, IN THE R/UO, SINGLE-FAMILY RESIDENTIAL DISTRICT WITH A UNIVERSITY OVERLAY DISTRICT. (APPLICANT: BBN ARCHITECTS—PATRICK SCHAUB / OWNER: AMERICAN INSTITUTE OF BAKING)**

**A PUBLIC HEARING TO CONSIDER AN EXCEPTION UNDER THE TERMS OF THE MANHATTAN ZONING ORDINANCE OF THE CITY OF MANHATTAN, KANSAS, TO ALLOW FOR THE REDUCTION OF THE MINIMUM REQUIRED SIXTY (60) FOOT FRONT YARD SETBACK TO APPROXIMATELY TWENTY-THREE (23) FEET FOR A PROPOSED ACCESSORY ADMINISTRATIVE BUILDING ASSOCIATED WITH AN EXISTING CONDITIONAL USE, LOCATED AT 1213 BAKERS WAY, IN THE R/UO, SINGLE-FAMILY RESIDENTIAL DISTRICT WITH A UNIVERSITY OVERLAY DISTRICT. (APPLICANT: BBN ARCHITECTS—PATRICK SCHAUB / OWNER: AMERICAN INSTITUTE OF BAKING)**

Johnson presented the staff reports for the two (2) items with the recommendation of approval.

Lavis asked if there would be any removal of plant materials on the site. \

Johnson stated that all the vegetation on the north and east sides of the site will be maintained as it is.

Hamilton asked how many square feet the existing administrative building is.

Johnson stated that it's about 3,000 to 4,000 square feet but will differ the exact number to the applicant.

Hardy opened the public hearing.

Patrick Schaub, BBN Architects and representative of the applicant, addressed the Board. Schaub stated that the existing administrative building is just over 4,000 square feet. Schaub also stated that vegetation on the north side of Bakers Way and on the eastside of the site will be maintained because the grade changes make construction difficult and inefficient. The site of the detention cell will be cleared and cleaned to help maintain efficient water flow and mitigate runoff.

Julie Hostetler, local resident at 1715 Thomas Circle, stated that her property will be affected by the changes because of it abuts the site. Hostetler expressed concern that the improvements on the site may alter the vegetation that creates a buffer and screen between the site and the nearby residential neighborhoods. Hostetler asked where the utility building will be moved to on the site.

Johnson explained that the utility building will be relocated just outside the existing parking lot and sixty-five (65) feet from the east property line.

Hamilton asked how much foliage will have to be removed to accommodate the relocation of the utility building.

Schaub stated that very little vegetation will have to be removed because little vegetation exists on the proposed site because it's already primarily an open green space.

Hardy closed the public hearing.

Hamilton stated that the clarification of the utility building relocation is sensitive to maintaining the vegetative buffer between the site and residential neighborhood. Hamilton also stated that she appreciates the conformity and aesthetics of the building and site design.

Danner stated that the design is of minimal impact to the neighbors.

The Board made the following findings of fact for the Conditional Use at 1213 Bakers Way.

**PRESENT USE:** American Institute of Baking (AIB)

### **STANDARDS FOR A CONDITIONAL USE**

**A. Compliance with all applicable regulations:** The property was developed in the mid 1970s as an educational campus. According to the building permit, the subject site was zoned University District which did not require a conditional use at the time. Since the facility was built, the site has been rezoned to R/UO, Single-Family Residential District with University Overlay, which does require a conditional use. A Conditional Use was approved in 1991 as a part of an alteration project to the existing structure, which included improvements to the parking lot located to the north of the subject site.

The applicant has submitted an application for an Exception to reduce the front yard setback for an accessory structure from sixty (60) feet to approximately twenty-three (23) feet for the proposed administrative building (*Please see Exception staff report for more information*). Other than this condition, the subject site complies with all applicable regulations.

**B. Probable effect on adjacent properties:** The subject site is zoned R, Single-Family Residential with UO, University Overlay. The surrounding properties to the north, east, and southeast are zoned R, Single-Family Residential while properties directly to the south are zoned R-3, Multi-Family Residential with UO, University Overlay. To the west is Kansas State University, zoned U, University. This zoning mix creates a wide variety of uses, both residential and educational in nature.

The addition of the administrative building should have minimal adverse impacts on adjacent properties. While surrounded by housing, the subject site is relatively isolated by foliage and mature trees that screen the site from adjacent properties. The property is only accessible by

Bakers Way, which exclusively serves the property and terminates on the subject site. According to the application document, “The property will continue to be utilized as it has been for the last 38 years. This conditional use will not change the hours of operation, types of operations, or site circulation patterns that have already existed. Efforts have been made to preserve the conditions at the perimeter of the site and to minimize the visual impact on the surrounding properties. There are no new activities planned which have not already been occurring on this site, so negative impact on the neighborhood property is not anticipated.”

The applicant held an informal neighborhood meeting as part of the Conditional Use application process. There were several neighbors in attendance and a variety of issues were discussed including; the preservation of mature trees located along the north and east property lines; increased parking; elevation of the proposed administrative building; future expansion and plans of the AIB facility; changes to lighting associated with the new building; and changes to stormwater (*Please see the attached Neighborhood Meeting Summary for more information*).

**C. Domination by use over neighboring properties:** The addition of the proposed administrative office building to the existing institutional use should not dominate over the uses of the neighboring properties.

- 1. Location, nature, and height of physical improvements:** According to the application documents, the proposed building will be one-story tall and approximately twenty-one (21) feet in height, measured to the top of parapet. The building footprint will be 12,376 square feet and setback from Bakers Way in alignment with the existing AIB facility at approximately 23 feet, when measured to the front door canopy. The new building is designed with similar materials as the existing AIB facility, utilizing limestone façade and metal roof materials.
- 2. Landscaping and screening:** The subject site has significant wooded and mature vegetations along the east and south property lines. These areas provide natural screening to adjacent property, especially those located to the east of the subject site. According to the application documents “it is the desire of the owner to maintain the densely vegetated areas...There will be some tree removal required along the south property line and in the vicinity of the existing stormwater detention area to improve its effectiveness.” Overall, the area will maintain its existing landscaping consisting of open lawn, mature trees and shrubs.

**D. Adequate provision of parking and loading:** A minimum of 147 off-street parking spaces are required for the educational institution use. This was derived by using the parking requirement for Trade and Commercial Schools: At least one (1) parking space for each three (3) students, and at least one (1) parking space for each fulltime employee. According to the applicant, there are 130 employees and up to 50 students for each educational session (50 students / 3 = 16.6). There are over 150 off-street parking spaces on the subject site including the proposed additional parking spaces. According to the application documents, “Overall, the

existing parking on site is adequate. Even at peak use times there are typically 30+ stalls available.” Considering these factors, adequate provisions for off-street parking is provided.

**E. Adequate provision of drainage, and other public utilities:** The site currently drains to the south where it is collected in area inlets, then piped underground to an existing detention area located in the southwest corner of the subject site before continuing on into the City’s stormwater system. The system will be maintained and the proposed plans call for the detention area to be cleared of vegetation and debris to improve its overall performance. The current drainage patterns on the subject site will remain the same due to the size, nature and location of the proposal.

Public water, sanitary sewer and other public utilities are present and adequate for the proposed use. All utilities are in place to serve the existing and proposed facility. Utility easements are provided for the existing and future utilities.

**F. Adequate provision of access:** The subject site will continue to be accessed off of Bakers Way via N. Manhattan Avenue. Traffic patterns should be essentially unchanged as no additional curb cuts are proposed. Other than the added off-street parking, no changes are proposed to the internal circulation of the subject site.

Hamilton motioned that the Board approve the Conditional Use to allow for a proposed accessory administrative building associated with an existing conditional use located in the R/UO, Single-Family Residential District with a University Overlay District, with the following conditions of approval:

1. The Conditional Use shall apply to the proposed accessory administrative building associated with the existing conditional use as outlined in the application documents and site plans.
2. The subject site shall be constructed as proposed.
3. Future expansions or modification shall require a Conditional Use Permit.
4. The Exception to reduce the front yard setback for the proposed accessory administrative building shall be approved.

Danner seconded the motion which passed on a vote of (4-0).

The Board made the following findings of fact for the Exception at 1213 Bakers Way.

**PRESENT USE:** American Institute of Baking (AIB)

**COMPLIANCE WITH ALL APPLICABLE REGULATIONS:** The property was developed in the mid 1970s as an educational campus. According to the building permit, the subject site was zoned University District which did not require a conditional use at the time. Since the facility was built, the site has been rezoned to R/UO, Single-Family Residential District with University Overlay, which does require a conditional use. A Conditional Use was approved in 1991 as a part of an alteration project to the existing structure, which included improvements to the parking lot located to the north of the subject site.

The applicant has submitted an application for a Conditional Use in the R/UO, Single-Family Residential District with a University Overlay District (*Please see the Conditional Use staff report for more information*). Other than the Exception and Conditional Use requests, the subject site complies with all applicable regulations.

**PROBABLE EFFECT ON ADJACENT PROPERTIES:** The subject site is zoned R, Single-Family Residential with UO, University Overlay. The surrounding properties to the north, east, and southeast are zoned R, Single-Family Residential while properties directly to the south are zoned R-3, Multi-Family Residential with UO, University Overlay. To the west is Kansas State University, zoned U, University. This zoning mix creates a wide variety of uses, both residential and educational.

The Exception for the administrative building should have minimal adverse impacts on adjacent properties. While surrounded by housing, the subject site is relatively isolated by foliage and mature trees that screen the site from adjacent properties. The property is only accessible by Bakers Way, which exclusively serves the property and terminates on the subject site. According to the application documents, “Efforts have been made to preserve the conditions at the perimeter of the site and to minimize the visual impact on the surrounding properties.” In addition, the proposed building is generally in the same location as an existing utility building that is planned to be razed.

**EFFECTS ON PUBLIC HEALTH, SAFETY, MORALS, ORDER, CONVENIENCE, PROSPERITY, OR GENERAL WELFARE:** Minimal adverse effects on the general health, safety or welfare of the public are anticipated. As previously mentioned, the subject site is relatively isolated from adjacent property and the general public. The encroachment into the front yard setback is minor, as a small portion of the roof overhang is designed to align with the existing AIB facility.

**THE STRICT APPLICATION OF THESE REGULATIONS IS UNREASONABLE, OR UNNECESSARY WHEN ALL FACTS AND CIRCUMSTANCES ARE CONSIDERED:** The strict application of the front yard setback would prohibit the construction of the administrative building as proposed. The building could be built to fit outside of the required front yard setback but may require the existing on-site parking, circulation and drainage patterns to be reconfigured. In addition, the proposed administrative building will be sited in the same generally location as the existing utility building which has been established for many years.

Considering these factors and that the proposed administrative building will not impact adjacent properties or the general public, the strict application of the regulations appear to be unreasonable.

Danner motioned that the Board approve the Exception under the terms of the Manhattan

Zoning Ordinance of the City of Manhattan, Kansas, to allow for the reduction of the minimum required sixty (60) foot front yard setback to approximately twenty-three (23) feet for a proposed accessory administrative building associated with an existing conditional use, located in the R/UO, Single-Family Residential District with a University Overlay District, with the following conditions of approval:

1. The Exception request shall be limited to the proposed administrative building as explained in the application documents and shown on the site plan.
2. The Conditional Use for the proposed accessory administrative building shall be approved.
3. The subject site shall be developed as proposed.
4. All applicable permits shall be obtained.

Lavis seconded the motion which passed on a vote of (4-0).

### **BOARD OFFICER ELECTIONS**

Hamilton nominated Hardy for Chairperson for 2015. Danner seconded the motion which passed on a vote of (3-0) with Hardy abstaining.

Danner nominated Hamilton for Vice Chairperson for 2015. Lavis seconded the motion which passed on a vote of (3-0) with Hamilton abstaining.

Hardy adjourned the meeting.

Respectfully Submitted by,

Everett Haynes, Planning Intern