

**MINUTES**  
**MANHATTAN URBAN AREA PLANNING BOARD**  
**City Commission Room, City Hall**  
**1101 Poyntz Avenue**  
**July 21, 2008**  
**7:00 p.m.**

**MEMBERS PRESENT:** Jerry Reynard, Chairperson; Stephanie Rolley, Vice-Chair; Mike Hill; Mike Kratochvil; and Bill Meredith.

**MEMBERS ABSENT:** George Ham and Nikki Miller

**YOUTH IN GOVERNMENT:**

**STAFF PRESENT:** Eric Cattell, Assistant Director for Planning; Steve Zilkie, Senior Planner; Jane Winslow, Senior Planner; Cam Moeller, Planner II; Chad Bunger, Planner.

**OPEN PUBLIC COMMENTS**

No one spoke.

**CONSENT AGENDA**

1. **APPROVE THE FINAL PLAT OF THE HIGHLAND MEADOWS ADDITION, UNIT FIVE, GENERALLY LOCATED NORTH OF THE INTERSECTION OF HARLAND DRIVE AND HIGHLAND RIDGE DRIVE. (OWNER/APPLICANT: SCHULTZ DEVELOPMENT, INC.- TIM SCHULTZ)**

Kratochvil moved that the Board approve the Consent Agenda. Hill seconded the motion, which passed on a vote of 5-0.

**GENERAL AGENDA**

2. **A REQUEST TO CONSIDER THE REZONING OF LOT 30A AND LOT 30B, HIGHLAND MEADOWS ADDITION, APPROXIMATELY 600 FEET WEST OF THE INTERSECTION OF HARLAND DRIVE AND HIGHLAND RIDGE DRIVE AND ALONG THE WEST SIDE OF HIGHLAND RIDGE DRIVE. FROM R-2, TWO-FAMILY RESIDENTIAL DISTRICT, TO R-3, MULTIPLE-FAMILY RESIDENTIAL DISTRICT. (OWNER/APPLICANT: SCHULTZ DEVELOPMENT, INC.- TIM SCHULTZ)**

Bunger presented the staff report for the rezoning request, indicating that City Administration recommended approval.

Reynard opened the public hearing.

Mark Bachamp, Schultz Development, indicated the purpose of the rezoning and provided a sketch plan and information for the proposed swimming pool and

bathhouse to serve the adjacent apartment building. Bachamp explained that he has spoken with the resident to the south and has offered to plant Austrian Pine trees or Red Cedar trees to provide screening of the pool.

Betty Gott, 507 Highland Ridge Drive, and is adjacent to the site. She expressed concerns of the proposed rezoning and the proposed swimming pool. She felt that trees would not provide enough screening and privacy for her property from the proposed swimming pool. Gott also had concerns of the amount of noise and trash generated by the swimming pool and how the proposed swimming pool would affect the resale of her property. Gott stated that she was not opposed to a swimming pool to serve the apartments, but would prefer that it be located elsewhere, if possible.

Reynard asked Gott if she had any issues with the proposed plan to plant Red Cedar trees as a buffer. Gott stated she would not prefer the trees because they would be messy and create yard waste.

Jane Ross, 505 Highland Ridge Drive, had similar concerns that Gott had. She would prefer a privacy fence rather than the trees. Ross asked if there were limitations on pole lighting for the swimming pool and who will monitor the pool and close the pool at night.

Bachamp provided additional information concerning the proposed privacy buffer and swimming pool. Bachamp said that the trees would offer a taller screening than a six foot fence. The properties to the south are at a higher elevation than the site, so a privacy fence would not help. He also said that the apartment complex staff would be in charge of closing the pool and would not want the pool open past 9:00 pm. Bachamp was not sure of the limitations or requirements of pole lighting and deferred to City staff.

Rolley asked why the proposed pool was not a part of the original development plans for the apartment units. Bachamp said that they did not anticipate the need for the pool. The plan was for the pool on the other side of the development would be able to handle the demand of the apartment complex.

Betty Gott said that when they purchased their property, they were told that a duplex would be built next door and a pool was not mentioned.

Reynard closed the Public Hearing with no one else speaking.

Rolley asked about the requirements of lighting and the hours of operation for the swimming pool. Zilkie provided a background of the rezoning request. He said the applicants could have requested a Conditional Use from the Board of Zoning Appeals for the swimming pool as a health and fitness center in the R-2, Two-Family Residential District. This process would consider the impacts of the proposed use and place conditions of approval of items such as lighting, hours of operation and so forth. The apartment buildings along Scenic Drive requested a similar Conditional Use from the Board of Zoning Appeals as well as a companion Exception request to reduce parking for the swimming pool. If the Applicant chose to seek a Conditional Use, they would either have to provide the required number of

parking spaces for the health and fitness center use or seek a companion Exception to reduce the number of parking spaces and modify the approved Exception to account for the shared parking of the swimming pool. The applicant chose to rezone the two lots and combine them with the adjacent lot to the north so that the swimming pool could be built as an accessory structure to the apartment building. There are no use limitations for the accessory use in the R-3 District that address the stated concerns. The only limitations for the swimming pool are the setback requirements of the Zoning Regulations and fencing requirements by the International Building Code.

Rolley asked if any conditions could be placed on the proposed rezoning. Zilkie said that no conditions could be placed on the rezoning request.

Meredith asked the applicant if he would be willing to reconsider the proposal for screening and install a fence rather than plant trees. Tim Schultz, Schultz Development, said that he would consider the idea of installing a fence, but felt that the fence would not adequately screen the swimming pool from the neighbors.

Rolley expressed her concerns that the proposed swimming pool was not handled with the original development plan. She felt that a Conditional Use Permit was a more appropriate process to propose the swimming pool, rather than the request to rezone.

Reynard expressed similar concerns that Rolley had.

Kratochvil asked if this property was originally zoned R-3 and the applicants brought in a building permit for a swimming pool could it be built? Zilkie said if the original zoning was R-3 and it was a part of Lot 31, it could be built as an accessory structure as long as it met all setback requirements.

Kratochvil stated that the lots to be rezoned are only .43 acres, which is too small to construct an apartment complex. He said that even though this is a roundabout way to have the accessory swimming pool, he could support the rezoning request.

Tim Schultz addressed the Board and said that the lot was originally purchased for the potential to build the accessory swimming pool if was needed for the apartment buildings.

Jane Ross addressed Schultz's comment and said that she was apparently miss-lead by the home builder when she purchased her property and knowing that a swimming pool was planned for the site would have impacted her decision to purchase the property.

Kratochvil moved that the Manhattan Urban Area Planning Board recommend approval of the proposed rezoning of lot 30a and lot 30b, Highland Meadows Addition, approximately 600 feet west of the intersection of Harland Drive and Highland Ridge Drive and along the west side of Highland Ridge Drive. From R-2, Two-Family Residential District, to R-3, Multiple-Family Residential District, based on the findings in the staff report.

Hill seconded the motion. The motion failed with a vote of 2-3. Kratochvil and Hill voted in favor of the motion; Reynard, Rolley and Meredith voted against the motion.

Meredith stated that he would like to see a mechanism to place conditions on the proposed swimming pool. Reynard explained that the Conditional Use process would be the appropriate mechanism to place conditions on the pool.

Rolley moved that the Manhattan Urban Area Planning Board recommend denial of the proposed rezoning of lot 30a and lot 30b, Highland Meadows Addition, approximately 600 feet west of the intersection of Harland Drive and Highland Ridge Drive and along the west side of Highland Ridge Drive. From R-2, Two-Family Residential District, to R-3, Multiple-Family Residential District, based on the finding that the proposed rezoning would be incompatible with adjacent properties.

Meredith seconded the motion.

Zilkie provided information about the Conditional Use process and that the findings of the Board of Zoning Appeals are final and can only be appealed to the District Court.

Bachamp asked if a restrictive covenant could be placed on the property to limit the way the property would be developed. Zilkie stated that the Board should make a decision on the rezoning request and is not considering placing conditions through a restrictive covenant. Reynard asked if the applicant could bring back the request with a set of covenants if the request was denied. Zilkie stated that using a restrictive covenant to place conditions on a rezoning should be avoided. Kratochvil agreed with Zilkie and that the Board needs to address the rezoning request at hand.

Rolley asked if this could be brought before the Board in a Planned Unit Development. Zilkie said that it was an option for the applicant.

Kratochvil asked the Chairman to call for the vote on the motion. The motion to recommend denial of the rezoning request failed on a vote of 2-3. Rolley and Meredith voted in favor of the motion; Kratochvil, Hill and Reynard voted against the motion.

Kratochvil moved that the Manhattan Urban Area Planning Board recommend approval of the proposed rezoning of Lots 30a and 30b, Highland Meadows Addition, approximately 600 feet west of the intersection of Harland Drive and Highland Ridge Drive and along the west side of Highland Ridge Drive. From R-2, Two-Family Residential District, to R-3, Multiple-Family Residential District, based on the findings in the staff report.

Hill seconded the motion, which passed on a vote of 3-2. Rolley and Meredith voted against the motion.

**3. A PUBLIC HEARING TO CONSIDER THE REZONING OF LOTS 12-15, EUREKA ADDITION, FROM C-6, HEAVY COMMERCIAL DISTRICT WITH AO, AIRPORT OVERLAY DISTRICT, TO I-4, HEAVY INDUSTRIAL DISTRICT WITH AO, AIRPORT OVERLAY DISTRICT. (OWNER: /APPLICANT: PENNEY'S CONCRETE INC., DAVID HOOVER, PRESIDENT)**

Zilkie presented the staff report and recommended denial of the request based on the findings in the staff report.

Hill asked why the community currently does not have an industrial park that could accommodate this use and similar uses. Zilkie responded the community has not had a demand for heavy industrial uses; however, subdivisions for industrial activities in the Manhattan Corporate Technology Park and K-State Research Park have been established.

Kratochvil asked about if the Job Corp was in the City and if adjoining properties to the east and west were in the County. Zilkie responded that he was correct.

Kratochvil asked about the existing sand/concrete and asphalt sites south of K-18. Zilkie responded that they were in the County and zoned County PUD.

Kratochvil then asked about the email from the County Engineer stating their concerns about the amount of heavy vehicle traffic from the concrete plant on the existing roads; has the City received any information about road improvements for the County road leading to the Eureka Addition. Zilkie provided information about the County's response and their original plan to improve Eureka drive.

Rolley asked if Mr. Hobson, Riley County Engineer, was present. He was not. Rolley agreed with Hill's questions and statement that the community may need a new industrial park that permits these types of heavy industrial uses.

Hill asked what would be accomplished by requiring the proposal to be brought back in front of the Planning Board as a Planned Unit Development (PUD). Zilkie responded that the PUD would allow the site plan, screening, landscaping, parking, signage and lighting to be considered by the community.

Reynard opened the public hearing.

David Hoover, President of Penny's Concrete, Inc., provided information about their business and the rezoning request. Hoover provided pictures about their existing concrete batch plants in Kansas and Missouri and provided information about those sites. Hoover also provided information about their proposed concrete batch plants process and the fencing and screening they have proposed for the site.

Kratochvil asked Hoover how much concrete will be produced at the proposed plant. Hoover responded that 6 – 8 trucks hauling 10 cubic yards would be produced a day.

Kratochvil asked what the existing plants in Junction City and Fort Riley produced. Hoover responded that a combined 30 trucks a day were currently being produced at those plants.

Mark Bachamp, Schultz Development, provided information about the self imposed restricted covenant and addressed the issues of traffic, the idea of rezoning the site as a Planned Unit Development and the proposed uses that were brought up in the staff report.

Patrick Gobel, representative of Star Lumber, stated his opposition to the proposed request based on its impact on their property value and the idea of spot zoning and that impact on the rest of the development. He also questioned if the proposed screening was adequate to screen the concrete plant from adjoining properties and from K-18.

Tim Schultz, Schultz Development, addressed Hill's comments of where do you build this type of use. Schultz said that he was originally opposed to a concrete batch plant being located in the Eureka Addition, but because of the technology of concrete making and Penny's operations, he was sold on the idea. Schultz also addressed the proposed screening of the batch plant and the use of the restrictive covenant.

Reynard closed the public hearing.

Kratochvil stated that he could not approve the proposed rezoning and would like to see the request brought back to the Planning Board as a PUD because of the adjoining property owner's concerns, the area's residential uses and the Job Corps.

Meredith was impressed with Mr. Hoover's presentation, but because of environmental concerns, (height of the buildings and raw materials) created by the concrete batch plants processes, he would like to see more local oversight and conditions of approval to limit any adverse affects.

Reynard explained that the raw materials could only be stored so high, before they spread out on the ground. He also said that he was impressed that they water the raw materials daily to limit the amount of dust.

Kratochvil stated that environmental concerns were less of an issue with him, but that other batch plants in the area went through the PUD process.

Rolley agreed with other Board members and staff's recommendation for this proposal to be in the form of a PUD.

Kratochvil moved that the Manhattan Urban Area Planning Board recommend denial of the proposed rezoning of Lot 12, Lot 13, Lot 14 and Lot 15, Eureka Addition, from C-6, Heavy Commercial District, with AO, Airport Overlay District, to I-4, Heavy Industrial District, with AO, Airport Overlay District, based on the findings in the Staff Report. Meredith seconded the motion,

Hill stated for the record that he hopes that Penny's Concrete come back to the

Planning Board as a PUD and would support approval of PUD request. The issue is with the site layout and site plan rather than the proposed use. Meredith, Rolley and Kratochvil agreed.

The motion to recommend denial of the request to rezone the area passed on a vote of 4-1, with Reynard voting against the motion.

**4. REVIEW THE PROPOSED 2009-2014 CAPITAL IMPROVEMENTS PROGRAM (CIP) FOR CONFORMANCE WITH THE MANHATTAN URBAN AREA COMPREHENSIVE PLAN AND REVIEW THE URBAN SERVICE AREA BOUNDARY.**

Cattell indicated that the Planning Board is given the opportunity to review and comment on the proposed Capital Improvements Program, for conformance with the Manhattan Urban Area Comprehensive Plan, prior to adoption of the CIP by the City Commission. In addition, the Urban Service Area Boundary is reviewed annually along with the CIP. He said the Urban Service Area Boundary (USAB) depicts those areas adjacent to, or in the vicinity of the City, which the Comprehensive Plan, Growth Vision, and Utility Plans identify as growth areas that could be served in the future through extension of existing systems. He explained that the City entered into an agreement with Pottawatomie County regarding the treatment of sanitary sewage from areas along a portion of the US 24 Corridor, east of the Blue River, including the annexed Heritage Square PUD to which the city also supplies water. In addition, the City is currently in ongoing discussions with Riley County regarding provision of utility services in a portion of the K-177 Gateway Corridor across the Kansas River to the south. He said no specific action was needed from the Planning Board at this time regarding the USAB. City Administration will keep the Planning Board informed as to the status of discussions for utility service in the Gateway Corridor and the USAB will be reviewed again this winter, as part of the annual review of the Comprehensive Plan.

Department Heads provided a brief overview of proposed CIP items and answered questions from the Board, which included:

- The timing of Wreath Avenue and Miller Parkway extensions.
- The timing of the West Anderson Avenue widening.
- If the Dickens Avenue - Browning Avenue storm water improvements will help address drainage issues raised during the zoning hearing on the Westport South Commercial PUD, south of Anderson Avenue.
- If work on addressing Wildcat Creek flooding issues, as well as updates to the Stormwater Management Master Plan's Best Management Practices (BPM's) will be done by in-house staff, or by consultants.
- If work on the Gateway Plan and other area plans will be done by in-house staff, or by consultants.

Following the discussion, Kratochvil moved that the Manhattan Urban Area Planning Board find that the proposed 2009-2014 Capital Improvements Program is in general conformance with the Comprehensive Plan. The motion was seconded by Rolley, which passed on a vote of 5-0.

**5. REPORTS AND COMMENTS BY BOARD MEMBERS**

There were no reports or comments.

Respectfully submitted,

Chad Bunger, Planner