



MINUTES
CITY COMMISSION MEETING
TUESDAY, DECEMBER 18, 2007
7:00 P.M.

The Regular Meeting of the City Commission was held at 7:00 p.m. in the City Commission Room. Mayor Tom Phillips and Commissioners Mark Hatesohl, Bob Strawn, Bruce Snead, and James E. Sherow were present. Also present were the City Manager Ron R. Fehr, Assistant City Manager Jason Hilgers, City Attorney Bill Frost, City Clerk Gary S. Fees, 11 staff, and approximately 90 interested citizens.

PLEDGE OF ALLEGIANCE

Mayor Phillips led the Commission in the Pledge of Allegiance.

PROCLAMATION

Mayor Phillips proclaimed December 31, 2007, *Little Apple New Year's Eve Celebration Day*. Lindsay Larson, Marketing Coordinator, Manhattan Festival Committee, was present to receive the proclamation.

COMMISSIONER COMMENTS

Commissioner Hatesohl thanked the Westar Energy employees and those that helped with the tree removal services in our community as a result of the recent ice storm.

Commissioner Sherow thanked City staff for their efforts during the ice storm.

Mayor Phillips also thanked those that helped during the storm and acknowledged the Red Cross, the local media, and thanked citizens for coming together and working as a community.

Ron Fehr, City Manager, provided the community with an update regarding Westar Energy and informed citizens that the City would be providing a city-wide clean up effort beginning in mid-January. He stated if there is an obstruction of a fallen tree limb in a public street or right-of-way to contact the City offices.

CONSENT AGENDA
(* denotes those items discussed)

MINUTES

The Commission approved the minutes of the Regular City Commission Meeting held Tuesday, December 4, 2007.

CLAIMS REGISTER NO. 2565

The Commission approved Claims Register No. 2565 authorizing and approving the payment of claims from November 28, 2007, to December 11, 2007, in the amount of \$1,504,735.12.

LICENSES - RENEWALS

The Commission approved applications for 2008 Cereal Malt Beverage, Tree Maintenance, and Merchant Guard Agency licenses.

ORDINANCE NO. 6679 – VACATE RIGHT-OF-WAY – SOUTH 17TH STREET

The Commission approved Ordinance No. 6679 vacating a portion of South 17th Street right-of-way adjacent to 523 South 17th Street.

ORDINANCE NO. 6680 – FRANCHISE – KANSAS STATE UNIVERSITY CABLE

The Commission approved Ordinance No. 6680 amending the Code of Ordinances to renew the terms of the franchise with KSU Cable for a period of five years.

ORDINANCE NO. 6681 – AMEND – CEMETERY FEES

The Commission approved Ordinance No. 6681 amending Sections 9-18, 9-23, and 9-28 of the Code of Ordinances providing for fees and charges of cemeteries owned by the City of Manhattan.

RESOLUTION NO. 121807-A – CITY BOUNDARY

The Commission approved Resolution No. 121807-A establishing and defining the boundaries of the City of Manhattan, Kansas, as of December 18, 2007.

* **RESOLUTION NO. 121807-B - PETITION – 1600 BLOCK ALLEY (HOUSTON STREET TO PIERRE STREET) (ST0801)**

Ron Fehr, City Manager, responded to questions from the Commission regarding the petition and provided additional information on the item.

The Commission found the petition sufficient and approved Resolution No. 121807-B making findings and authorizing construction for the 1600 block alley between Houston Street and Pierre Street.

CONSENT AGENDA (CONTINUED)

RESOLUTION NO. 121807-C - REVISED PETITION – SCENIC MEADOWS – SANITARY SEWER IMPROVEMENTS (SS0702)

The Commission found the revised petition sufficient and approved Resolution No. 121807-C rescinding Resolution No. 022007–D and finding the project advisable and authorizing construction for Scenic Meadows Sanitary Sewer Improvements (SS0702).

RESOLUTION NO. 121807-D - REVISED PETITION – SCENIC MEADOWS – SANITARY SEWER LIFT STATION (ST0703)

The Commission found the revised petition sufficient and approved Resolution No. 121807-D rescinding Resolution No. 022007–E and finding the project advisable and authorizing construction for Scenic Meadows Sanitary Sewer Lift Station (SS0703).

RESOLUTION NO. 121807-E - REVISED PETITION – SCENIC MEADOWS - WATER IMPROVEMENTS (WA0702)

The Commission found the revised petition sufficient and approved Resolution No. 121807- E rescinding Resolution No. 070307-A and finding the project advisable and authorizing construction for Scenic Meadows Water Improvements (WA0702).

RESOLUTION NO. 121807-F - REVISED PETITION – SCENIC MEADOWS – STREET IMPROVEMENTS (ST0701)

* Ron Fehr, City Manager, provided additional information on the item.

The Commission found the revised petition sufficient and approved Resolution No. 121807-F rescinding Resolution No. 022007–G and finding the project advisable and authorizing construction for Scenic Meadows Street Improvements (ST0701).

RESOLUTION NO. 121807-G – PURCHASE – HERITAGE SQUARE SOUTH PROJECT – SANITARY SEWER IMPROVEMENTS (SS0612)

The Commission found the petition sufficient and approved Resolution No. 121807-G making findings and authorizing the purchase of Heritage Square South Sanitary Sewer Improvements (SS0612).

RESOLUTION NO. 121807-H – PURCHASE – HERITAGE SQUARE SOUTH PROJECT - WATER IMPROVEMENTS (WA0613)

The Commission found the petition sufficient and approved Resolution No. 121807-H making findings and authorizing the purchase of Heritage Square South Water Improvements (WA0613).

CONSENT AGENDA (CONTINUED)

RESOLUTION NO. 121807-I – PURCHASE – HERITAGE SQUARE SOUTH PROJECT – EXTERNAL WATER IMPROVEMENTS (WA0614)

The Commission found the petition sufficient and approved Resolution No. 121807-I making findings and authorizing the purchase of Heritage Square South External Water Improvements (WA0614).

RESOLUTION NO. 121807-J – PURCHASE – HERITAGE SQUARE SOUTH PROJECT - STREET IMPROVEMENTS (ST0616)

The Commission found the petition sufficient and approved Resolution No. 121807-J making findings and authorizing the purchase of Heritage Square South Street Improvements ST0616).

RESOLUTION NO. 121807-K – PURCHASE – HERITAGE SQUARE SOUTH PROJECT – US 24, TRAFFIC SIGNAL, STORM DRAINAGE IMPROVEMENTS (ST0702)

The Commission found the petition sufficient and approved Resolution No. 121807-K making findings and authorizing the purchase of Heritage Square South US 24, Traffic Signal, and Storm Drainage Improvements (ST0702).

RESOLUTION NO. 121807-L – GENERAL OBLIGATION BONDS – 402 BLUEMONT AVENUE ACQUISITION (ST0703)

* Ruth Schrum, 720 Midland Avenue, voiced concern with this item and asked what houses would be affected. She then spoke in opposition to the item.

Ron Fehr, City Manager, provided clarification on the item and discussed the design for the intersection. He stated the intent will be to save and relocate the house, if possible.

The Commission approved Resolution No. 121807-L for the issuance of general obligation bonds not to exceed \$165,000.00 to finance the acquisition of the property at 402 Bluemont Avenue for the Fourth Street Improvement Project, Phase II, (ST0703).

AGREEMENT – DESIGN – K-18 AND MILLER PARKWAY/DAVIS DRIVE IMPROVEMENT PROJECT (ST0713)

The Commission authorized the Mayor and City Clerk to enter into an agreement with Schwab Eaton, P.A., of Manhattan, Kansas, for the design of intersection improvements on the K-18 and Miller Parkway/Davis Drive Improvement Project (ST0713).

CONSENT AGENDA (CONTINUED)

AWARD CONTRACT – HAWTHORNE WOODS ADDITION – STREET (ST0715), WATER (WA0709), AND SANITARY SEWER (SS0711) IMPROVEMENTS

The Commission accepted the Engineer's Estimate in the amount of \$1,001,767.95 and awarded a construction contract in the amount of \$726,913.20 to the low bidder, Larson Construction, of Manhattan, Kansas, for Hawthorne Woods Addition Street (ST0715), Water (WA0709), and Sanitary Sewer (SS0711) Improvements.

CONTRACT – REHABILITATE – LEAVENWORTH STREET SOUTH STEPS (SP0708)

The Commission authorized the Mayor and City Clerk to execute a contract in the amount of \$54,000.00 with Borst Restoration, Inc., of Manhattan, Kansas, for the rehabilitation of the south set of steps at the west end of Leavenworth Street, west of Delaware Avenue (SP0708).

AMENDMENT – ENGINEERING SERVICES – WASTEWATER TREATMENT PLANT ELECTRICAL EQUIPMENT REPLACEMENT PROJECT (SS0608)

The Commission authorized the Mayor and City Clerk to execute an amendment to the agreement with Black and Veatch, of Kansas City, Missouri, for Engineering Services for the Wastewater Treatment Plant Electrical Equipment Replacement Project (SS0608).

CHANGE ORDER NO. 2-FINAL – STONE POINTE ADDITION, UNIT 1, PHASE I – STREET IMPROVEMENTS (ST0611)

The Commission approved Change Order No. 2-Final for Stone Pointe Addition, Unit 1, Phase I, (ST0611) resulting in a net increase in the amount of \$43,408.87 (+23.1%) to the original contract with Walters-Morgan Construction Co., of Manhattan, Kansas.

CHANGE ORDER NO. 2-FINAL – STONE POINTE ADDITION, UNIT 1, PHASE II – STREET IMPROVEMENTS (ST0617)

The Commission approved Change Order No. 2-Final for Stone Pointe Addition, Unit 1, Phase II, (ST0617) resulting in a net increase in the amount of \$8,562.23 (+11.3%) to the original contract with Walters-Morgan Construction Co., of Manhattan, Kansas.

CONSENT AGENDA (*CONTINUED*)

CONTRACT – CRIME STOPPERS

The Commission approved contract as budgeted in the 2008 City Budget and authorized the Mayor and City Clerk to execute said contract with Crime Stoppers.

CONTRACT – MANHATTAN CENTER FOR THE ARTS

The Commission approved contract as budgeted in the 2008 City Budget and authorized the Mayor and City Clerk to execute said contract with Manhattan Center for the Arts.

CONTRACT – WOLF HOUSE MUSEUM

The Commission approved contract as budgeted in the 2008 City Budget and authorized the Mayor and City Clerk to execute said contract with Wolf House Museum.

CONTRACT – DOWNTOWN MANHATTAN, INC.

The Commission approved contract as budgeted in the 2008 City Budget and authorized the Mayor and City Clerk to execute said contract with Downtown Manhattan, Inc.

CONTRACT – SOCIAL SERVICES ADVISORY BOARD

The Commission approved contract as budgeted in the 2008 City Budget and authorized the Mayor and City Clerk to execute said contracts with agencies receiving Social Services Advisory Board funding.

CONTRACT – SPECIAL ALCOHOL FUND

The Commission approved contract as budgeted in the 2008 City Budget and authorize the Mayor and City Clerk to execute said contracts with agencies receiving Special Alcohol funding.

CONTRACT – AGGIEVILLE BUSINESS IMPROVEMENT DISTRICT

The Commission authorized the Mayor and City Clerk to execute the 2008 Aggieville Business Improvement District contract.

CONTRACT –DOWNTOWN BUSINESS IMPROVEMENT DISTRICT

The Commission authorized the Mayor and City Clerk to execute the 2008 Downtown Business Improvement District contract.

CONSENT AGENDA (CONTINUED)

AGREEMENT - OUTSIDE CITY SEWER SERVICES – 5104 SKYWAY DRIVE

The Commission authorized the Mayor and City Clerk to execute an agreement permitting connection to the City of Manhattan's public sanitary sewer collection system by Pepsi-Cola Bottling Company, of Marysville, Kansas, for the real estate located at 5104 Skyway Drive, Riley County, Kansas.

After discussion, Commissioner Hatesohl moved to approve the consent agenda as read. Commissioner Snead seconded the motion.

Commissioner Sherow requested if possible and feasible, that the stone house located in the North End of the Downtown Redevelopment District (Item K) should be moved.

On a roll call vote, motion carried 5-0.

GENERAL AGENDA

FIRST READING – AMEND - MANHATTAN MARKETPLACE, UNIT TWO, AND ORDINANCE NO. 6544

Mayor Phillips outlined the process of the item and asked that the public keep their comments brief and distinct. He thanked the community for their debates, passion, input, and thoughtfulness on the project and process that has occurred to date.

Ron Fehr, City Manager, provided an overview of the presentation format and overall impact of the item. He then encouraged the City Commission to ask questions of those presenting.

Jason Hilgers, Assistant City Manager/Redevelopment Coordinator, provided an overview on the Downtown Redevelopment Project, previous and future action of the City Commission, Planned Unit Development (PUD) Amendment alternatives, North End alternatives, and South End alternatives. He then answered questions regarding the project, leases, and concerns with potential breach of contracts.

Bill Frost, City Attorney, provided clarification on the item and stated the timeframe is statutory by the State of Kansas.

GENERAL AGENDA (CONTINUED)

FIRST READING – AMEND - MANHATTAN MARKETPLACE, UNIT TWO, AND ORDINANCE NO. 6544 (CONTINUED)

Jason Hilgers, Assistant City Manager/Redevelopment Coordinator, provided additional information on the item and stated that if we move off the entire North End redevelopment plan completely, than what is proposed, it would require a new public process for the North End redevelopment area. He then answered questions from the Commission regarding the Final Redevelopment Agreement and provided a breakdown of South End plan alternatives and associated costs.

Ron Fehr, City Manager, provided clarification on the PUD Amendment and responded to issues raised if significant changes or shifts were made to the approved redevelopment project.

Eric Cattell, Assistant Director for Planning, presented an overview and update on the proposed Manhattan Marketplace Unit Two, a Commercial Planned Unit Development. He then answered questions from the Commission regarding the proposed Hy-Vee outside storage area, zoning, building designations, signage, parking, pedestrian safety, future space plans, and design guidelines.

Bob Welstead, President, Dial Realty, provided an overview and update on the downtown redevelopment project and details on the proposed PUD Amendment. He stated that the approval of the PUD Amendment is necessary to further revitalize the downtown area and that the North End is the economic development engine that drives everything on the South End of the redevelopment. He informed the Commission that Dial has invested at least \$2 million in staff time, overhead, travel, and architectural engineering not related to the acquisition of real estate. He stated that Dial has 77 percent leases currently signed, with pending leases that would take the project to 86 percent leased. He informed the Commission that Dial has senior living projects in five states and 8,000 apartments in their portfolio and will see to it that the housing options get built.

Rick Kiolbasa, Dial Realty, provided background information on the Conceptual Master Plan in July 2005, the Preliminary PUD in June 2006, and the PUD Amendment being proposed. He showed an overlay drawing of the Amendment to the PUD being proposed and indicated that the overall concept was not changing significantly and that the Strasser House was remaining in its current location. He stated the Downtown Tomorrow Study identified groceries and pharmacies. He then informed the Commission of the companies that Dial has initiated conversations with, financial risks that Dial assumed, initial site costs, and stated that tenant choice could not be dictated by the City.

GENERAL AGENDA (CONTINUED)

FIRST READING – AMEND - MANHATTAN MARKETPLACE, UNIT TWO, AND ORDINANCE NO. 6544 (CONTINUED)

Bob Welstead, President, Dial Realty, provided the current portfolio of Dial projects located in 19 states. He informed the Commission of national and regional marketing efforts to attract businesses to Manhattan and stated that Dial has 77 percent of the leases signed, with contingencies related to zoning and building permits. He then discussed the PUD design guidelines and requirements and, provided an overview of building and landscape features.

Pete Hosch, Assistant Vice President-Real Estate, Hy-Vee Grocery Stores, introduced Dennis Ausenhus, Senior Vice President, Hy-Vee.

Dennis Ausenhus, Senior Vice President, Hy-Vee, informed the Commission that Hy-Vee is looking forward to the project, subject to the approval of the PUD and appreciated the opportunity to be part of this redevelopment project in Manhattan.

Pete Hosch, Assistant Vice President-Real Estate, Hy-Vee, stated their company will invest over \$15 million in this market and provided background information on Hy-Vee and its plans for the Manhattan facility.

Bob Welstead, President, Dial Realty, provided additional information on the landscaping features and housing units being proposed.

Brad Waller, Project Manager, HWS Consulting Group, provided an analysis summary of truck movements and volumes, stating that both the Downtown Tomorrow Plan and Manhattan Transportation Strategy Plan designated Fourth Street as a collector. He informed the Commission that the increased volume of trucks would account for less than 2 percent increase in overall vehicle volumes per day, which would have a minimal impact on streets.

Bob Welstead, President, Dial Realty, requested that Third Street be opened up near the Mall and responded to staff comments and the six conditions outlined in the memorandum. He stated that the financing and leases are in place and asked the Commission to approve the Manhattan Marketplace PUD Amendment.

At 9:55 p.m., the Commission took a brief recess.

Pete Hosch, Assistant Vice President-Real Estate, Hy-Vee, informed the Commission that they would forgo outside sales at this time.

GENERAL AGENDA (CONTINUED)

FIRST READING – AMEND - MANHATTAN MARKETPLACE, UNIT TWO, AND ORDINANCE NO. 6544 (CONTINUED)

Bob Welstead, President, Dial Realty, responded to questions regarding the Agreement and clarified the tenant percentage leased.

Mayor Phillips opened the meeting for public comment.

Bernd Foerster, 920 Ratone Street, stated that Dial has presented significant improvements to the proposal and that he has received good impressions about Hy-Vee. However, he stated that what is being proposed is not what the Downtown Tomorrow Plan envisioned. He said the area is poorly suited for a grocery store and that the increased amount of truck traffic and economic development benefit would provide a proposal much less than the expected outcome. He asked the Commission to adhere to the original plan and to deny the Amendment to enlarge the proposed building.

Mike Flourish, 1589 Navaho Road, Clay Center, owner of Ray's Apple Market, stated that competition is a free world and we welcome it. He asked about the survey and who paid for the grocery survey.

Ron Fehr, City Manager, stated the City of Manhattan paid for the survey and that the consultant is here and prepared to give a report.

Mike Floersch, 1589 Navaho Road, Clay Center, owner of Ray's Apple Market, stated that he welcomed competition and asked questions about the Retail Grocery Demand Analysis prepared by Real Estate Research Consultants, Inc. He stated that if Hy-Vee would build a 65,000 to 68,000 square foot building at this location, we could all go home and everyone would be happy. He questioned the number of trucks identified by Hy-Vee and proposed to pay for part of a grocery store survey with a firm from Minneapolis, Minnesota.

Mayor Phillips asked individual presenters to make notes of questions raised in order to respond after the public comment period.

David Darling, 131 E.J. Frick, presented an economic development pyramid and provided pull factors on the strength of the retail community and market share analysis for the three county area to the Commission. He stated that he would fail the consultant chosen because the consultant did not do their homework and voiced disappointment in choosing an outside firm to conduct the analysis.

GENERAL AGENDA (CONTINUED)

FIRST READING – AMEND - MANHATTAN MARKETPLACE, UNIT TWO, AND ORDINANCE NO. 6544 (CONTINUED)

Lisa Rockley, Executive Director, Downtown Manhattan, Inc. (DMI), stated that DMI has been involved with this redevelopment project from the beginning. She stated the current plan compromises the original plan and does not fulfill the original intent. She said there is a large amount of public resistance to this plan and stated that a grocery store at this site would have negative impacts on the historic area and neighborhood. She asked that the Commission deny the PUD Amendment.

Vincent Tracy, 304 Knoxberry Drive, informed the Commission that he did not support the proposed PUD Amendment and thanked Hy-Vee for showing interest in Manhattan. He stated the Hy-Vee store does not fit into the downtown redevelopment project, lacks adequate residential parking, is not pedestrian friendly, and asked the Commission to deny the request.

Brent Bowman, 107 North 14th Street, informed the Commission that he has been involved in this project as an architect and as a citizen in creating the design guidelines. He provided insight into the project and stated that a top priority is to protect the investment in the Mall and to create retail opportunities in downtown. He said the amenities of the South End district are what is really important in this entire project with STAR bonds and that high design standards of quality must be maintained with pride.

Karen Mayse, 3340 Newbury, President, League of Women Voters of Riley County, advocated the Leagues position of decisions made by government based on citizen input and best practices and expressed dismay that the public comment during the planning stages is now being marginalized and ignored. She stated the amended PUD is an erosion of what was once a good plan the public helped develop and said the plan does not adhere to standards 5 and 6. She urged the Commission to not support an amendment that does not adhere to all the golden standards.

Lee Windsor, Service Center Manager, Western Extralight, 221 Colorado Street, informed the Commission that he was planning on investing in a new facility and asked that the amendment be approved.

Tom Roberts, 2015 Pierre Street, Chair, Historic Resources Board, provided background information on the purpose of the Board and informed the Commission that the Board has compromised significantly with regard to historic structures. He voiced pleasure that the Strasser House was protected but, questioned the livability of the residential units planned along Fourth Street. He stated that the Board still has concerns about standards 5 and 6 and, offered the expertise of the Board to Dial and to other developers.

GENERAL AGENDA (CONTINUED)

FIRST READING – AMEND - MANHATTAN MARKETPLACE, UNIT TWO, AND ORDINANCE NO. 6544 (CONTINUED)

Marge Davidson, life-long Manhattan resident, informed the Commission that when this process started, there was a promise for a diversified market. She stated that Manhattan needs a women's ready-to-wear store and asked that the proposed amendment be denied.

Christopher Smith, 1328 Fremont Street, asked that more thought go into the pedestrian, bicycle, and vehicular movements in the North End project to better blend with the rest of Manhattan. He stated that bicycle's in a college town is a very good thing.

Linda Weis, 215 Pine Drive, real estate business owner, stated that Manhattan has many wonderful opportunities for those wanting to relocate to our community. She stated competition is always welcomed and urged the Commission to do what they can to work through this so that Manhattan comes up with a positive resolution that a lot of people are counting on.

Ruth Schrum, 720 Midland Avenue, affected property owner, informed the Commission that she cannot rent her property on North Fourth Street because it is a big mess. She also voiced concern for the stone house that is proposed to be taken out and stated that she was not happy with the proposed roundabout on Bluemont Avenue.

Roger Seymour, owner of property on North Fourth Street, informed the Commission that this project is affecting his property with lost of parking spaces. He applauded Hy-Vee for looking at the community but asked the Commission to not allow them to expand beyond 68,000 square feet and to reinstate the housing that was originally proposed.

Jeff Head, 3115 Heritage Ridge Court, agreed that Third Street should be opened for a better downtown connection and stated that additional improvements need to be made to improve pedestrian movements. He voiced concern with truck pollution from the trucks associated with the Hy-Vee store.

Christopher Renner, 508 Valley Drive, voiced disappointment in how the Commission meeting began and for a disregard for citizen input, as well as too much redundancy in presentations made by City staff and Dial Realty. He stated the proposed amendment to expand a grocery store does not conform to community standards and does not see the project as sustainable. He asked the Commission to consider creating a not-for-profit to oversee redevelopment for this community and to take a step back and not approve the amendment being proposed.

GENERAL AGENDA (CONTINUED)

FIRST READING – AMEND - MANHATTAN MARKETPLACE, UNIT TWO, AND ORDINANCE NO. 6544 (CONTINUED)

Jim Harwell, 1908 Plymouth Landing, asked the Commission to stop the nonsense and to ask Dial to provide what they agreed to originally. He stated the new proposal has design flaws and does not provide the types of unique businesses that we need. He asked to vote the amendment down and to tell Dial to regroup and bring back a plan with the types of businesses we need that do not cannibalize existing businesses.

Brad Everett, 3875 Windmill Run, stated that he did not know if the end result is something that we can all be satisfied with, but voiced concern that if this proposed arrangement is turned down, is there a Plan B. He stated that we need something that will work for the community and thanked the Commission for their service to the community.

Kent Glasscock, 1209 Deepcreek Road, stated that he served on the initial Downtown Redevelopment Steering Committee and said that redevelopment is a difficult and controversial process. He said the Steering Committee focused on paying attention to the historic downtown, meeting design guidelines, residential balance and buffer, and delivery of the South End. He said the PUD Amendment on balance is good for the community and encouraged the Commission to approve it.

Lyle Butler, President, Manhattan Area Chamber of Commerce, said the North End district was always looked at as a major retail district and then provided historical background information on the item. He said the Chamber has been involved because it is important to the entire community and that there was a consensus on seven principle items, including: 1) good creativity to the whole downtown including the core, the north, and south redevelopment areas and across the street to the west for pedestrians, bicyclists, and vehicles; 2) develop a landscape and streetscape plan that compliments the whole area; 3) develop design standards to ensure that the new development is sensitive to the downtown setting and what is already there; 4) provide a mixed-use development incorporating housing, retail, restaurants, and entertainment; 5) preservation of the downtown's history; 6) sensitivity to surrounding neighborhoods; and, 7) that the developer, not the community, should take the majority of the financial risk. He stated these principles should be followed in your decision.

Scott Quaintance, owner of the Quaintance-Garcia Apartments in the North End redevelopment, stated that he was not opposed to another grocery store in Manhattan, but that it needed to be in the northwest corner of town. He stated that a publicly funded redevelopment would provide an unfair advantage to others and to use tax dollars to shut down a neighbor is a misuse of tax dollars. He voiced opposition to the Hy-Vee store at this location and to the proposed amendment, and said that he would not spend his money at this store.

GENERAL AGENDA (CONTINUED)

FIRST READING – AMEND - MANHATTAN MARKETPLACE, UNIT TWO, AND ORDINANCE NO. 6544 (CONTINUED)

Peter Sultana, 914 Osage Street, Co-Chair, Eastside Neighborhood Association, informed the Commission that their Association does not approve of these proposed amendments and asked the Commission to stay with the original guidelines established.

Debbie Nuss, 1419 Humboldt Street, representing Riley County-Manhattan Preservation Alliance, provided an overview of prior meetings and stated the new amendment has done nothing but the minimum to retain the Strasser House. She stated the Manhattan Urban Area Planning Board has recommended denial twice and referenced the five findings identified by the Commission in the December 18, 2007, staff memorandum regarding the Manhattan Marketplace PUD Amendment.

Gwyn Riffel, 1117 Hylton Heights Road, informed the Commission that this is the wrong location for Hy-Vee and stated that we are at a critical point in making a difficult choice. He asked what the lost opportunity costs of not enhancing the regional draw to Manhattan and requested that the PUD amendment be denied.

Linda Glasgow, 2236 Snowbird Drive, stated that it is evident that the proposed amendment is a significant change to the PUD and is not a change for the better. She asked the Commission to please listen to its citizens and vote to deny this amendment.

Dave Darsey, Vice President, Real Estate Research Consultants, (RERC), provided background information on RERC and presented a summary of their analysis. He then responded to questions from the Commission regarding military personnel who purchase their groceries on Post and stated that that analysis could be added.

Bob Welstead, President, Dial Realty, responded to questions raised and stated that this type of quality redevelopment is a difficult process. He informed the Commission that they continue to work to obtain a good mix of businesses, presented potential users of buildings in the PUD, and asked the Commission to approve the amendment.

Pete Hosch, Assistant Vice President-Real Estate, Hy-Vee, explained the distribution and markets served by Hy-Vee and stated that they are a one-stop shop. He then responded to questions from the Commission regarding truck loads and military personnel that will utilize community grocery stores and the commissary.

At 12:28 a.m. the Commission took a brief recess.

GENERAL AGENDA (CONTINUED)

FIRST READING – AMEND - MANHATTAN MARKETPLACE, UNIT TWO, AND ORDINANCE NO. 6544 (CONTINUED)

Eric Cattell, Assistant Director for Planning, provided an overhead visual of the approved and the proposed amended Planned Unit Development and responded to questions from the Commission.

Commissioner Snead stated that he believed in the project's long term community benefit and stated that he has listened carefully to everything that has been said and, would look at his involvement through the entire process of downtown redevelopment to see the bigger picture and promise for our community. He stated that we still have work to do on the South End and the core district, but thought the five points identified, on balance, are in substantial compliance with the PUD and should proceed with this amendment.

Commissioner Strawn stated that we need to look at what our objective is in making this decision. He said that Hy-Vee is a great company and knows precisely what they are doing. He stated that he believed that people will not come from Clay Center, Marysville, and Moundridge to support Hy-Vee as they did to see Nichole Ohlde, Kendra Wecker and Laurie Koehn play basketball and that all of the revenue comes from businesses that is being done in Manhattan already. He said the City of Manhattan would need to make up \$650,000 annually for the next 20 years to pay off the tax increment financing bonds and, that the only place these funds would come from would be with property taxes. He stated that vilianizing Dial is wrong and that we should not be expanding the PUD because it will have a negative impact on the community and would not support the item.

Commissioner Sherow thanked everyone who has participated in this issue and said that Hy-Vee is a fine company. He provided background information on the downtown redevelopment efforts and discussed his concerns in communications with Rick Kiolbasa, Dial Realty, regarding the housing component. He stated that he has seen Dial as an economic tool the community could have for its vision for the redevelopment, but what we have is Dial's vision for the development. He said the amendment does not conform with the aspirations of the community, the character of the neighborhood or does the amendment provide a relative gain to the health and welfare of the community. He stated the North End district is not compatible with the desires of the community and is an erosion of a prior plan.

Commissioner Hatesohl stated that everyone has a different idea of downtown redevelopment and talked about the warehouse and buildings that were formerly at the site being redeveloped. He said the South End entertainment district, envisioned to include a conference center, hotel, museum, and possibly a movie theatre will be the ultimate draw and synergy to Manhattan. He said that people come to Manhattan because it is a fun

GENERAL AGENDA (CONTINUED)

FIRST READING – AMEND - MANHATTAN MARKETPLACE, UNIT TWO, AND ORDINANCE NO. 6544 (CONTINUED)

place to be and said that competition will result in some cannibalization. He stated the fiscal impacts of the project need consideration and said the amendment is not perfect; however, he would support it and asked the community to have a little faith that it will be okay.

Mayor Phillips said this whole community discussion has centered on two things, size of retailer proposed and that people are not excited about Hy-Vee at this location. He provided background information on efforts to recruit other retailers to Manhattan and said that Dial has tried to get the anchor tenant the community wanted. He stated that the Commission has the responsibility to consider the overall financial success of the entire downtown redevelopment project and that Hy-Vee plays an important role in the economic feasibility of creating enough sales tax revenue for the North End, and to finance debt on the South End. He provided concerns expressed by the Planning Board's denial of the amendment of the PUD and stated that they have not discussed the overall financing of this project and it is part of the overall equation and is something they need to consider. He stated that he would support the change in PUD.

Eric Cattell, Assistant Director for Planning, responded to questions from the Commission regarding the PUD, outside sales area and potential expansion space square footage.

After discussion, Commissioner Snead moved to return the recommendation to the Manhattan Urban Area Planning Board for further consideration together with a statement specifying that the Planning Board revisit Item 6 (Compatibility of proposed District with nearby properties and extent to which it may have detrimental affects) raised as the principle objection to the amended PUD; and based on the information presented relative to Item 10 (Relative gain to the public health, safety and welfare that denial of the request would accomplish, compared with the hardship imposed upon the applicant) in the matters to be considered, which essentially includes financial information relative to the City and the applicant presented tonight; and, that those two items be reconsidered by the Planning Board. Commissioner Hatesohl seconded the motion.

After additional discussion, on a roll call vote, motion carried 4-1, with Commissioner Strawn voting against.

Ron Fehr, City Manager, provided additional information on the timeframe of the STAR bonds and asked the Commission to consider an additional agreement on the security of future bonds, as they relate to the property tax increment associated with the North End and for the housing to be constructed in the North End.

After discussion, the Commission concurred to consider the additional agreement.

GENERAL AGENDA (CONTINUED)

RESOLUTION NO. 121807-M/FIRST READING – AUTHORIZE - \$20 MILLION IN SPECIAL OBLIGATION TAX INCREMENT FINANCING (TIF) REVENUE BONDS

Jason Hilgers, Assistant City Manager/Redevelopment Coordinator, presented the item and answered questions from the Commission.

Commissioner Snead moved to approve Resolution No. 121807-M authorizing the negotiation for sale of special obligation TIF revenue bonds; and approve first reading of an ordinance authorizing the issuance of up to \$20 million in special obligation TIF revenue bonds for the South Project area of Downtown Redevelopment. He then withdrew his motion.

Linda Glasgow, 2236 Snowbird Drive, asked to clarify the difference between a full faith and credit bond and a special obligation bond.

Joe Norton, Gilmore and Bell, provided the distinction between a full faith and credit obligation bond and a special obligation bond. He then answered questions regarding the debt being proposed and moral obligation pledge.

Linda Glasgow, 2236 Snowbird Drive, asked what the public's obligation was to pay off the bonds.

Jason Hilgers, Assistant City Manager/Redevelopment Coordinator, and Ron Fehr, City Manager, responded to questions regarding the debt structure, the City's moral obligation, and explained the redevelopment plan is based on a feasibility study and the projected revenue stream required to retire the debt.

Dave McGillivray, Springsted, Inc., the City's financial advisor, provided additional information on the moral obligation of debt service.

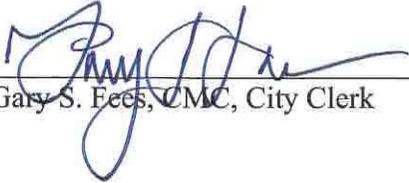
Rose Phillips, 814 Leavenworth Street, Apt. 4, asked if the resolution is approved, are we committed or is it tentative.

Ron Fehr, City Manager, stated that this is a special obligation revenue bond to purchase land and would not start the STAR Bond process.

After discussion, Commissioner Snead moved to approve Resolution No. 121807-M authorizing the negotiation for sale of special obligation TIF revenue bonds; and approve first reading of an ordinance authorizing the issuance of up to \$20 million in special obligation TIF revenue bonds for the South Project area of Downtown Redevelopment. Commissioner Hatesohl seconded the motion. On a roll call vote, motion carried 5-0.

ADJOURNMENT

At 1:55 a.m. the Commission adjourned.



Gary S. Fees, CMC, City Clerk

STAFF REPORT

ON AN APPLICATION TO AMEND THE APPROVED PRELIMINARY DEVELOPMENT PLAN OF MANHATTAN MARKETPLACE UNIT TWO COMMERCIAL PLANNED UNIT DEVELOPMENT (PUD)

BACKGROUND

APPLICANT OWNER: Dial-Manhattan Shops, LLC.

ADDRESS: 11506 Nicholas St. #200, Omaha, NE 68154-4421.

OWNER: Dial-Manhattan LLC.

LOCATION: Generally north of Osage Street, west of Tuttle Creek Boulevard, south of Moro Street and east of N. 4th Street.

(Note: Properties located at 312 Fremont Street and 318 Fremont Street are bounded by the PUD. 312 Fremont Street is zoned C-5 District. The current occupant is a plumbing business. The use at 318 Fremont Street is an apartment building, which is currently zoned R-3 District.)

AREA: Amendment site: Approximately 13.59 acres.

Total area for the approved Manhattan Marketplace Unit Two PUD: 21.8 acres.

DATE OF PUBLIC NOTICE PUBLICATION: Monday, November 13, 2007

DATE OF PUBLIC HEARING: PLANNING BOARD: Monday, December 3, 2007

CITY COMMISSION: Tuesday, December 18, 2007

EXISTING PUD:

Manhattan Marketplace, Unit Two, a Commercial Planned Unit Development and Ordinance No. 6544, dated June 6, 2006 (*attached*).

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A short description of the approved PUD is listed below with a “***” denoting those parts of the approved PUD affected by the proposed Amendment. Proposed modifications are described beginning on page 3.

Permitted Uses.

The permitted uses include all the permitted and conditional uses of the C-4, Central Business District.

Proposed Buildings, Structures, and Phasing.

The site is within the North Project Area of the Downtown Redevelopment Plan and identified as the Tuttle Creek District in the Design Guidelines for Downtown Redevelopment. The proposed development consists of commercial, residential, and mixed-use commercial/residential buildings. A public plaza is proposed on Lot 15. There is an existing stone residential structure on Lot 11, which will remain. All other proposed development is new construction. For the purposes of review, floor area is considered equal to lot coverage.

** A total of 207, one and two bedroom dwelling units are proposed in several buildings throughout the PUD.

** Lot 6: One and two-story commercial Buildings K, J, I and O. Lot coverage is approximately 62,700 square feet. Building K is also proposed to have ten (10) second floor residential dwelling units. Building Height: 24-39 feet.

** Lot 7: One-story commercial Buildings G and H. Lot coverage is approximately 22,233 square feet. Building Height: 22-30 feet.

** Lot 8: One-story commercial Building F. Lot coverage is approximately 68,500 square feet. Building Height: 35 feet. (*Note: Lot coverage was noted at approximately 73,000 square feet in area on the approved PUD due to the addition of an outdoor service area.*)

** Lot 9: One-story commercial Buildings L, M and N. Lot coverage is approximately 17,295 square feet. Building Height: 22-28 feet.

** Lot 10: Two-story residential Buildings T and U with fourteen (14) (*mislabeled 16 on plan sheet*) total dwelling units. Building Height: 25-26 feet.

** Lot 11: Existing residential structure (Strasser House). Lot coverage is approximately 1,582 square feet and may be used by the applicant as a real estate office or some other permitted use. Height: estimated 25 feet.

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** Lot 12: Two-story residential Building S with twelve 12 dwelling units. Building Height: 27 feet.

Lot 13: Two-story residential Building R with twenty (20) residential dwelling units. Building Height: 26-25 feet

Lot14: Three-story commercial/residential Building Q approximately 11,000 gross square feet of commercial floor area square on the first floor, and twenty-two (22) residential apartments, 11 units per floor, on floors 2 and 3. Building Height: 46 feet.

Lot 15: Four-story mixed use commercial/residential Building P with a parking garage, consisting of approximately 14,800 gross square feet of commercial space with restaurant on the first floor; 129 residential apartments, 43 units per floor, on floors 2-4; and a parking garage with approximately 270 parking spaces. Building Height: 57-66 feet

Lot 16: One-story commercial Building E. Lot coverage is approximately 7,429 square feet. Building Height: 24-28 feet.

DESCRIPTION OF PROPOSED AMENDMENT:

Whenever there are substantial modifications to an approved Preliminary Development Plan the Manhattan Zoning Regulations require an Amendment of the PUD (*attachment*). Proposed modifications to the PUD include, but are not limited to: changes to the approved site plans, architectural and floor plans, exterior building materials, landscape and screening plans, and signage plans; provision for outdoor seasonal sales; and the removal of one (1) building. (*Note: As a part of the Amendment, buildings and lots have been re-labeled.*) A Final Development Plan and Final Plat will need to be submitted at a later date, prior to construction of buildings.

Construction Phasing

Commercial construction on Lots 1-4, Travel Easements and streets are scheduled to commence in 2008 with opening dates in the Fall of 2008. No improvements to the Strasser House on Lot 5 are noted. Residential construction on Lots 6 and 7 are scheduled to commence in 2008.

Design Guidelines for Downtown Redevelopment

The Design Guidelines for Downtown Redevelopment sets out policy, intent, and conditions; site guidelines; building guidelines; supplemental guidelines for large format retail design and small scale residential guidelines; and, checklists for site and building

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guidelines. While the Guidelines are not regulations, they were incorporated as a part of the Development Agreement between the City and Dial. The Guidelines are for developers, architects, owners and decision makers for reviewing and evaluating proposals and design quality. Exceptions to the Guidelines may be considered if the overall intent of the Guidelines has been met. In addition, large format buildings, those with footprints greater than 10,000 square feet in area, such as iconic, corporate or standard building design, will be allowed, only if the purposes, intent and conditions of the Guidelines are met. General purpose and intent statements consists of:

- Promote a civic and functional relationship between the public streetscape and adjacent private development.
- Increase the economic and cultural vitality of Downtown Manhattan.
- Create an environment conducive to pedestrian circulation.

Amendment Description, Modifications and Design Guidelines include:

Note: In addition to the changes described below, the Amendment will eliminate 12 residential dwelling units from the approved 207 total residential dwelling units. The amendment proposes a total of 195 residential dwelling units .

Proposed Lot 1: Description: One story proposed commercial Buildings K (**Office Max**), J, and M with building heights from 26-32 feet. Lot coverage is approximately 33,704 square feet. (*Note: The approved PUD consists of Buildings K and J, which have been re-configured to consist of K, J, and M.*)

Modification: The approved floor plan for Building K shows 10 residential apartment units on the second floor of the building. It is City Administration's understanding that the proposed tenant does not desire to have a residential use above the business. The amended floor plan eliminates the 10 residential dwelling units.

Design Guidelines: Design Guidelines are met with two exceptions: (1) The sidewalk along the south side of Building K is 5 feet in width at certain points due to pilaster and tree conflicts; and, (2) Building K appears to have an entrance on the Osage Street corner frontage (south elevation), but does not. The business entrance is off 3rd Place. Because the building is sited on an important intersection, it may be appropriate to have an entrance on the Osage Street corner of the building. Note: The sidewalk along the south side of Building K is associated with the City's Osage Corridor street project. The City will coordinate with the developer to modify the design to provide wider walkable space along this sidewalk. One option could include moving the tree wells so they don't line up directly with the adjacent building pilasters.

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Proposed Lot 2: Description: one-story commercial Buildings I (**Bed, Bath and Beyond**) and O with building heights range from 25-34 feet. Lot coverage is approximately 30,134 square feet.

Modification: Allow a 400 square foot wall sign on the 3rd Place façade on Building I for Bed, Bath and Beyond. The approved sign is 200 square feet in area. The Design Guidelines indicate that signs must conform to the Manhattan Zoning Regulations. The applicable zoning district to determine conformance is the C-4, Central Business District. Gross surface area for wall signs are based on “the total gross surface area of all signs shall not exceed fifteen (15) times the square root of the street frontage on which the business has frontage, but in no case more than twenty (20) percent of the first floor of the facade of the building.”

For comparison, Best Buy’s wall sign was allowed at 350 square feet in area, or 144 square feet in area greater than the C-4 District requirement. If a comparable linear frontage to sign area ratio is applied to the Bed, Bath and Beyond sign, as applied to the Best Buy sign (350 square feet of sign/187.7 linear feet of building frontage=1.9), then the same ratio applied to Building I would be equivalent to a 220 square foot sign. C-4 District sign regulations applied to Building I would permit a sign 158 square feet in area. An increase to 220 square feet is reasonable and appropriate in scale to the building.

Design Guidelines: Design Guidelines are met, except for the wall sign.

Proposed Lot 3: Description: One-story commercial Building F (**Petco**) with building height up to 33 feet. Lot coverage is approximately 16,824 square feet.

Modifications: No substantial modifications.

Design Guidelines: Design Guidelines are met, except the north façade of the building does not have articulating features. However, the north façade is intended to be an interior wall when the intervening space is filled by an expansion of Hy-Vee. Given the future intent to fill the space, it is unreasonable to require the façade to provide articulating features.

Proposed Lot 4: Description: two-story commercial Building H (**Hy-Vee**). Building height is 25 feet. Façade height at the main entrance height is 36 feet.

The store is a 24 hour operation. The bulk of all deliveries take place on Monday and Friday with the potential for 40% to 60% of deliveries on Monday and Friday. Weekly deliveries consist of between 40 and 55 full size semi truck deliveries, which can be expected based on the size of the store and 45 to 65 route delivery trucks. The bulk of

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deliveries are between 6 AM and 5 PM with limited deliveries outside those hours. The primary use of the store is grocery sales. In addition, Hy-Vee departments may consist of a bank, pharmacy with drive-up window, coffee shop, dry cleaning, Starbucks, Postal substation, health quick care, and eating area with 170 seats. The site plan shows an outdoor seating area in front of the dining area at the northeast corner of the building.

An approximate 19,760 square foot area in the off-street parking lot, generally along the Tuttle Creek Boulevard frontage, will be for seasonal storage and sales of lawn, garden and landscaping items and outdoor furniture, which may be enclosed with temporary fencing or an equivalent barrier (*see photos*). Seasonal sales and storage is generally from March 1st to September 15th, or the planting and growing season. In addition, the outdoor area may be used for car shows, youth carnivals or similar activities. Outdoor storage is also proposed on apportion of the front sidewalk of the grocery store for seasonal sales such as pumpkins or Christmas Trees.

Hy-Vee notes that the 15,737 square foot future expansion area (proposed Building G) may also be used for lawn and garden products.

Modification: Lot coverage is approximately 78,113 square feet and includes an additional 15,737 square feet of expansion space to the south of the store scheduled to be occupied by Hy-Vee. The future expansion would fill the intervening space between the Petco building and Hy-Vee. The expansion space is proposed to be fenced with a 5.5 foot tall wrought iron fence with gate. Proposed Building H is approximately 40 feet greater in depth from east to west than the previously approved building (Building F) for this location. The change in lot coverage between approved Building F and proposed Building H is an approximate 12% increase.

If Hy-Vee expands to include Building G, total lot coverage is 93,850 square feet. Lot coverage for approved Buildings H and F is approximately 75,531 square feet in area. This is equivalent to a lot coverage increase of approximately 20%, with the majority due to the increase in the size of previously approved Building H from approximately 7,031 square feet, to 15,737 square feet in area.

Modification: A proposed drive-thru pharmacy and grocery pick-up is generally located at the southeast corner of the proposed building. Entry and exit driving lanes are consistent with the south flow of traffic along 3rd Place. Drive-in establishments are a permitted use in the PUD.

Modification: Building M is deleted from Lot 9 and replaced as off-street parking lot, also shown as the outdoor seasonal storage for Hy-Vee.

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Modification: An approximate 19,760 square foot area is proposed in the off-street parking lot generally along the Tuttle Creek Boulevard frontage for seasonal sales and storage of lawn, garden and landscaping items and outdoor furniture. Seasonal outdoor sales and storage is proposed to be generally from March 1st to September 15th, or the planting and growing season. In addition, the outdoor area may be used for car shows, youth carnivals or similar activities. Outdoor sales/storage is also proposed on the front sidewalk of the grocery store for seasonal sales such as pumpkins or Christmas Trees. Hy-Vee notes that the 15,737 square foot expansion area may also be used for lawn and garden products.

Design Guidelines Building materials consist of pre-cast concrete is proposed on the north (Moro Street frontage), south, and east (rear) elevations of the building and a small segment on the west elevation (3rd Place). Pre-cast is a material prohibited by the Design Guidelines. EIFS is not permitted to exceed 20% of a street façade. EFIS is proposed on the north and east facades of approximately 29% of each façade.

Design Guidelines: Building H proposes wall signs of varying size for independent businesses located in the grocery store, except for the “Food” sign, which duplicates the “Hy-Vee” sign. The main Hy-Vee wall sign is proposed at 7 feet in height and 31.5 feet in length, or 221 square feet in area, which conforms to the C-4 District. Other wall signs conform, except that signage should be limited to one sign per business.

Design Guidelines: Drive-thru pharmacy, pedestrian sidewalk, curbing and landscaping along the 3rd Place (east elevation) of the Hy-Vee store do not meet Design Guidelines or the approved PUD. The south curb cut exceeds the minimum 30 foot driveway width, which is 35 feet on the south entry, but 25 feet at the north exit. The drive-thru lanes are a break in the continuity of the pedestrian sidewalk and street wall. This interrupts the pedestrian streetscape provided with the approved PUD and required by the Design Guidelines. However, the sidewalk proposed along the building frontage keeps pedestrians off driveway curb cuts and maintains a 10 foot wide pedestrian walkway.

Design Guidelines: The sidewalk in front of Hy-Vee is landscaped at approximately 8.4% to 10% versus a minimum 15% and should be increased to the minimum. The Design Guidelines would require nine (9) trees to be provided, based on the 310 foot length of the façade, while 8 are shown. However to maintain symmetry and to protect the vision triangle at the northeast corner of Hy-Vee, 8 trees, with 4 on either side of the entrance is a reasonable balance. (Note: the north side of Hy-Vee along Moro Street, as well as the north side of Moro Street, will be a City design project.)

Design Guidelines: Some architectural elements of the building do not meet the Design Guidelines with respect to building facades, proportion and scale and building materials (*see attached letter from Bowman Bowman Novick dated September 24, 2007, No's 6, 7 and 8*).

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Proposed Lot 5: Description: Two (2) approved residential buildings, which were architecturally the same as Building S. The approved two (2) buildings consisted of 14 dwelling units and 22 bedrooms. Lot area is approximately 22, 238 square feet and lot depth is approximately 85 feet east to west. Fourteen (14) off-street parking spaces between the two buildings are deleted as a part of the amendment.

Modification: The modified lot is approximately 8,973 square feet in area and 38 feet in depth east to west, which is reduced in part by the southern portion of the approved lot being added to proposed Lot 6 for the Strasser House and in part by the increased east to west depth of the Hy-Vee building. Three (3) proposed residential buildings will replace the previous two (2) buildings. Proposed Building type T is a flat roofed, approximate 19 foot tall building, measured from street grade, one and half story above grade and half story below grade, brick residential structure with two, one-bedroom, dwelling units above and two, one-bedroom, units below grade. A total of 12 dwelling units and 12 bedrooms are proposed. Above grade units have decks along N. 4th Street and below grade units have patio areas, which will be screened by masonry walls from the Hy-Vee service areas. There are no wall openings along the east side of the building. At least 16 on street parking spaces to the immediate west of proposed Lot 5 are available along N. 4th Street to serve the occupants. The proposed Buildings T conform to the Design Guidelines.

Proposed Lot 6: The Strasser House is located on Lot 6, which is increased in lot area from approximately 4,795 square feet to approximately 6,055 square feet in area. The east setback of the building to the proposed screening wall is reduced from approximately 10 feet to 4 feet. A “green screen” trellis will be on the Strasser House side of the 8 foot tall masonry screening wall. The applicant’s consultant and the City’s Code Services Department researched the need for protection of wall openings in the east wall of the Strasser House and code requirements are met.

Proposed Lot 7: Two-story residential Building S with 12 dwelling units and 20 bedrooms. No changes to the approved architecture or floor plans are proposed. Building height is 27 feet and is the same residential building approved with the PUD. Off-street parking is reduced from 24 parking spaces to 19 spaces.

PROPOSED SIGNS

Type

Wall signs

Dimensions

Vary per business

Lighting

Internal Illumination

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Wall signs are internally lit and well scaled to the building facades, except as noted above under the description of the substantial modifications. The seasonal outdoor garden sales area might have temporary signage on the tents/awnings (*see photos*).

Signs generally follow the C-4, Central Business District sign requirements; however, the wall sign on Building I (Bed Bath and Beyond) exceeds the approved 200 square feet in area and is proposed at 400 square feet in area; and the additional wall sign on Building H (Food sign) duplicates the intent of another sign (Hy-Vee).

PROPOSED LIGHTING: Light poles will be 27 feet in height in the parking lots and 14 feet in height along pedestrian store front walkways, both of which are consistent with the approved PUD. Light fixtures will be provided on individual buildings according to architectural plans and not cast direct light on streets or adjacent property. Specific building light fixture signs will need to be provided with the Final Development Plan. The written application documents indicate that lighting fixtures along the rear of the commercial buildings will be a full cut-off shielded design.

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

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 applicant indicates the revised application represents, “The many changes, updates and revisions to this submittal have been made to carry out the spirit, intent and purpose of the conceptual Master Plan, Design Guidelines and Preliminary PUD which has been created for this district. Specifically, the design and scale of all of the residential units provided on 4th Street, combined with the preservation of the Strasser House along a tree-lined street, not only buffers but enhances the neighborhood.” In addition, architectural and pedestrian elements provide for an extension of the downtown area.

The general intent of the PUD is to provide for a pedestrian oriented mixed use retail and residential environment as an extension of Downtown. The pedestrian environment is a key element of the Design Guidelines. Proposed architectural and site modifications that do not meet the Design Guidelines could be revised to ensure that the intent of the approved PUD is met, if the recommended conditions of approval are required. Any conditions of approval will be made a part of an amending ordinance and would have to be reflected on Final Development Plan submittals.

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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: The applicant states that, “The proposed amendment is made necessary because of the city and Dial’s desire to further the revitalization of the downtown area. The challenge has been to transform this property from a variety of dilapidated businesses and aging housing into an active and vital mixture of new residential and retail services yet preserving a good transition and buffer to the surrounding neighborhood. Specifically, the preservation of the Strasser house on its existing site and the addition of twelve apartment housing units along 4th Street south of Moro, provide for a better buffer transition than what was previously proposed.” In addition, “The changes to the PUD were caused by the marketplace. Many retailers were contacted to see if the demographics that Manhattan provides would be suitable for their type of store. Upon further review, the tenants that are choosing to come to Manhattan are tenants that can and will be successful and sustainable for many years to come”

It is recognized that modifications may be needed to address market conditions to insure a viable development. Modifications should conform to the Design Guidelines to meet the overall intent of the approved PUD.

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: Approval of the proposed Amendment would result in a relative gain to the general public welfare by allowing the implementation of the PUD and the overall downtown redevelopment project to proceed and because of the substantial public investment in public improvements that have already been made in association with the PUD. It appears that the primary measurable change is increased truck traffic associated with the Hy-Vee grocery store. A supplemental traffic engineering analysis by the applicant’s professional engineer, and review and acceptance by the City Engineer, indicate the public street system has the capacity and has been designed to handle increased truck traffic. Proposed modifications to the approved PUD are minimal. Streets and easements are otherwise designed to accommodate the downtown redevelopment project.

The proposed amendment will not be granted as a special benefit to any one person. While the proposed modifications to include the Hy-Vee may not be what the community originally anticipated, the changes are in response to market conditions in order to make the project viable and a benefit to the general public.

ADDITIONAL MATTERS TO BE CONSIDERED WHEN AMENDING A PLANNED UNIT DEVELOPMENT

1. LANDSCAPING: The proposed landscape plan provides for a number and variety of shade and ornamental trees, evergreen trees, shrubs, foundation plantings, parking lot landscaping, screening, and ground cover throughout the site. The landscaping plans conform to the approved PUD and requirements of the Design Guidelines, except as noted above. Landscaping and underground irrigation will be maintained by the owner.

2. SCREENING: Dumpsters are proposed to be screened by masonry enclosures with doors. Loading dock and trash compacter locations adjacent to the rear of Buildings F and H will be screened from residential dwellings to the west and from public streets, in combination with landscape screening and 8 foot tall masonry walls along property lines, or walls that are integrated with the building design (Buildings F, H and T).

3. DRAINAGE: The site is proposed to drain to the east to inlets and then to the drainage channel along the east side of Tuttle Creek Boulevard. A comprehensive drainage plan was submitted and approved with the approved PUD and there are no changes to the drainage proposal.

4. CIRCULATION:

Public Access

The proposed internal circulation plan provides for safe, convenient and efficient movement of goods, motorists, bicyclists, and pedestrians. Conflicts between motorists and pedestrians are minimized.

The site will be accessed from the surrounding street system and a right-in and right-out off Tuttle Creek Boulevard. Internal travel easements and public streets will provide access to all lots. Sidewalks are proposed throughout the site, as well as along Tuttle Creek Boulevard. Sidewalk crossings of most streets will be brick paved to emphasize pedestrian crossings.

The applicant's original traffic analyses were comprehensive for the entire North Project Area and indicated nominal impact on the surrounding transportation network as a result of the proposed development. The analysis was previously accepted by the City Engineer with the rezoning to PUD.

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The applicant's professional engineer has submitted a supplemental traffic engineering analysis Technical Memorandum (*attached*), which describes the impact of increased truck traffic related to the proposed Hy-Vee grocery store on N. 4th Street. The Memorandum's conclusion is that 4th Street is designed as a collector street consistent with the Manhattan Urban Area Comprehensive Plan and Downtown Tomorrow Plan and the additional truck traffic will have minimal impact on the street.

The City Engineer (*attachment*) has reviewed the Technical Memorandum and accepts it with no exceptions.

Off-Street Parking

The Manhattan Zoning Regulations do not require off-street parking in the C-4 District for any use. The number of approved parking spaces in the area of the Amendment, within the approved PUD, is 638 commercial and 38 residential, a total of 676.

Within the area of the Amendment, a total of 680 off-street parking spaces are proposed, of which 19 are associated with Lot 7, residential Building S. In addition, 81 can be expected to be used for the seasonal outdoor sales storage area by Hy-Vee. Cart corrals are proposed in the parking lot and have been set aside and do not reduce the proposed total 680 parking spaces. On- street parking along the east side of N. 4th Street can be used to meet the needs for residential buildings, as well as the Strasser House.

The proposed number of parking spaces should be adequate. Without specific detailed floor plans, parking must be calculated based on gross floor area. Off-street parking demand is based on net floor area. Storage, bathrooms, mechanical rooms and similar areas that do not create parking demand are deducted from the total floor area. It is assumed that actual demand would be less than demand based on gross floor area. It should also be assumed that demand for every commercial and residential use will have to be met at the same time.

5. OPEN SPACE/LANDSCAPED AND COMMON AREA: Approximately 16% of the site is open space/landscaped area, which will be maintained by the applicant.

6. CHARACTER OF THE NEIGHBORHOOD: The site is within a commercial service/retail corridor, and bounded on the east by Tuttle Creek Boulevard, on the west by North 4th Street, on the south by the Central Business District, and the north by Bluemont Avenue and a mixture of retail and service retail uses. The area to the west of the site is characterized as a mix of low and medium density residential uses.

MATTERS TO BE CONSIDERED WHEN REZONING

1. EXISTING USE: Manhattan Marketplace Unit Two, a Commercial Planned Unit Development, subject to Ordinance No. 6544 (attached) approved on June 6, 2006. The site is generally vacant and being prepared for redevelopment.

2. PHYSICAL AND ENVIRONMENTAL CHARACTERISTICS: Generally flat. Existing structures have been demolished and the site has been graded and is vacant except for the Strasser House and two existing properties on Fremont Street, which are not within the PUD. Existing drainage is to the east to the ditch along the west side of Tuttle Creek Boulevard. The site is located in a 500 Year Flood Plain and is not subject to flood plain development regulations or requirements.

3. SURROUNDING LAND USE AND ZONING:

(a.) NORTH: Bluemont Avenue, commercial retail and service uses; C-5 District and Wal-greens PUD

(b.) SOUTH: Leavenworth Street, Manhattan Town Center; C-4 District.

(c.) EAST: Tuttle Creek Boulevard, commercial/retail uses: C-5 District and PUD.

(d.) WEST: N. 4th Street, single-family, two-family, multiple-family residential uses, community facilities (Senior Center); R-M, Four Family Residential District and R-2 District with TNO, Traditional Neighborhood Overlay District and C-4 District.

4. GENERAL NEIGHBORHOOD CHARACTER: See Number 6 above.

5. SUITABILITY OF SITE FOR USES UNDER CURRENT ZONING: The existing site is suitable for the Permitted Uses approved with the PUD.

6. COMPATIBILITY OF PROPOSED DISTRICT WITH NEARBY PROPERTIES AND EXTENT TO WHICH IT MAY HAVE DETRIMENTAL AFFECTS: The proposed modifications should have minimal impact on adjacent properties. Properties to the north are commercial. To the south is the approved PUD, with residential uses to the west of N. 4th Street. Proposed modifications should not adversely affect those areas as the changes associated with the Amendment are generally consistent with the approved PUD. To the east is Tuttle Creek Boulevard and the Amendment proposes no change that would adversely impact that street.

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- May 16, 2006 City Commission considers first reading of an ordinance rezoning of Manhattan Marketplace Addition, Unit Two to PUD, Commercial Planned Unit Development District and on a vote of 5-0, overrode the Planning Board's recommendation and approved first reading of an ordinance rezoning the site to PUD, Commercial Planned Unit Development, as modified by the revised Preliminary Development Plan that replaced the hotel use in Building P with residential dwellings, based on the findings in the Staff Report as verbally updated in the staff presentation, with the four (4) conditions of approval recommended by the Planning Board.
- June 6, 2006 City Commission overrides the recommendation of the Manhattan Urban Area Planning Board and approves Ordinance No. 6544 rezoning Manhattan Marketplace Addition, Unit Two, to PUD Commercial Planned Unit Development District as modified by the revised Preliminary Development Plan replacing the hotel use in Building P with residential dwellings, based on the findings in the Staff Report as updated by the Cover Memorandum, with the four (4) conditions of approval listed in the Staff Report.
- October 1, 2007 Public hearing to amend the approved PUD tabled by the Manhattan Urban Area Planning Board due to a technical problem with the sound system.
- October 15, 2007 Manhattan Urban Area Planning Board, on a vote of 7-0, recommended denial of an amendment of Manhattan Marketplace Addition, Unit Two Commercial Planned Unit Development District and ordinance No. 6544. The application was withdrawn by the applicant on November 8, 2007.

9. 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 PUD amendment is

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consistent with the intent and purposes of the Zoning Regulations, the intent of the PUD Regulations and Design Guidelines, subject to the conditions of approval listed under the staff recommendation.

10. 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 in comparison to the hardship to the applicant and the City. That portion of the PUD affected by the Amendment is an integral part of the overall downtown redevelopment project. Substantial public investment has, and will continue to be made, in order to implement the PUD as a part of the overall downtown redevelopment effort. Denial of the Amendment would be a hardship on the applicant, as well as the general public, given the levels of public investment already made and the issues associated with the development agreement between the City and Dial (*see memorandum from Ron Fehr, City Manager*).

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

12. OTHER APPLICABLE FACTORS: None.

13. STAFF COMMENTS: City Administration recommends approval of the proposed Amendment of Manhattan Marketplace, Unit Two, a Commercial Planned Unit Development, and Ordinance No. 6544, subject to the following conditions:

1. Decorative pedestrian scale lights shall be provided on the vertical support columns, consistent with pedestrian lights proposed on the vertical accent pilasters along the front and northern facades of HyVee.
2. The Bed Bath & Beyond wall sign shall be reduced to 220 square feet in area to be proportional to its frontage and consistent with the PUD.
3. Outdoor seasonal sidewalk sales in front of HyVee shall be conducted in a manner so as to remain ADA compliant and shall not restrict pedestrian movement. The outdoor seasonal storage and sales area in the parking lot and the area of Building G shall be limited to the areas delineated on the site plan and from March 1st to September 15th of each year.
4. The front (east) and Moro Street (north) façades of HyVee shall conform to the Design Guideline's 20 % restriction on the percentage of EIFS material.

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5. The percentage of required landscaping along the sidewalk area in front of Building H (HyVee) shall follow the Design Guidelines.
6. All provisions of Ordinance No. 6544 that are not in conflict with this amendment shall remain in force.

ALTERNATIVES:

1. Recommend approval of the proposed Amendment of Manhattan Marketplace, Unit Two, a Commercial Planned Unit Development, and Ordinance No. 6544, stating the basis for such recommendation.
2. Recommend denial of the proposed Amendment, and Ordinance No. 6544, stating the specific reasons for denial.
3. Table the proposed Amendment to a specific date, for specifically stated reasons.

POSSIBLE MOTION:

The Manhattan Urban Area Planning Board recommends approval of the proposed Amendment of Manhattan Marketplace, Unit Two, a Commercial Planned Unit Development, and Ordinance No. 6544, based on the findings in the Staff Report, subject to the six (6) conditions of approval recommended by City Administration.

PREPARED BY: Steve Zilkie, AICP, Senior Planner

DATE: November 28, 2007

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