

***MINUTES***  
***CITY COMMISSION MEETING***  
***TUESDAY, NOVEMBER 2, 2010***  
***7:00 P.M.***

The Regular Meeting of the City Commission was held at 7:00 p.m. in the City Commission Room. Mayor Bruce Snead and Commissioners James E. Sherow, Loren J. Pepperd, Jayme Morris-Hardeman, and Bob Strawn were present. Also present were the Assistant City Manager Jason Hilgers, Assistant City Manager Lauren Palmer, City Attorney Bill Frost, City Clerk Gary S. Fees, 9 staff, and approximately 60 interested citizens.

**PLEDGE OF ALLEGIANCE**

Mayor Snead led the Commission in the Pledge of Allegiance.

**PROCLAMATION**

Mayor Snead proclaimed November 6, 2010, ***Buddy Poppy***. Marvin Ketter, Commander, and Bob Fry, Quartermaster, Veteran's of Foreign Wars Post #1786, were present to receive the proclamation.

**PUBLIC COMMENTS**

Mayor Snead opened the public comments.

Bob Flack, Grace Baptist Church, 2901 Dickens Avenue, read a prepared statement from 26 pastors and leaders who serve several churches and organizations throughout Manhattan who were in opposition to the proposed amendments to the anti-discrimination ordinance. He asked that the Commission not amend the anti-discrimination ordinance according to the current proposals.

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

## COMMISSIONER COMMENTS

Mayor Snead informed the community that during the Discussion/Briefing Session, held prior to the City Commission Legislative Meeting, the Commission discussed the anti-discrimination ordinance reviewed by the Human Rights and Services Board and agreed to place first reading of the proposed ordinance on the December 7, 2010, Legislative Meeting; discussed the economic development task force issues and potential timelines and will address the item after the first of the year; discussed issues associated with water rates and decided to put the item on a Special City Commission Meeting agenda on Tuesday, November 30, 2010; discussed the make-up and representation of the City's new Municipal Audit Committee; discussed a letter received from property owners along Wildcat Creek who experienced flooding issues; discussed the recent Joint City/Riley County/Pottawatomie County Meeting on the stop-gap funding needed for building construction of the new Riley County Area Transportation Agency (ATA) facility and agreed to send a letter to the Riley County Commission recommending a City/County split of 50/50 to reduce the burden on ATA; discussed Riley County Law Board appointment considerations; reviewed the Mayor's Spirit of the Holiday's Lighted Parade and other future calendar items of the Commission; and discussed the McCall Road Connection Open House scheduled for Wednesday, November 3, 2010, and encouraged citizens to attend.

## CONSENT AGENDA

(\* denotes those items discussed)

### MINUTES

The Commission approved the minutes of the Regular City Commission Meeting held Tuesday, October 5, 2010, and the Special City Commission Meeting held Tuesday, October 12, 2010.

### CLAIMS REGISTER NO. 2653

The Commission approved Claims Register No. 2653 authorizing and approving the payment of claims from October 6, 2010, to October 26, 2010, in the amount of \$4,197,111.52.

### LICENSE – TREE MAINTENANCE

The Commission approved a Tree Maintenance license for calendar year 2011 for Capital City Tree Care, Inc., 7920 NW 35<sup>th</sup> St., Silver Lake; Creed Construction, Inc., 115 Messenger Road, Manhattan; Growing Concerns, Inc., 2880 Zeandale Road, Manhattan; Randy's Tree Service, 110 Castle Street, Grandview Plaza; Salina Tree, Inc., 2681 W State Street, Salina; Don's Stump Removal and Tree Service, 3761 S. 33<sup>rd</sup> Street, Manhattan; and Horticultural Services, Inc., 11524 Landscape Lane, St. George.

## CONSENT AGENDA (CONTINUED)

### FINAL PLAT – SNOWBIRD ADDITION, UNIT 4

The Commission accepted the easements and rights-of-way, as shown on the Final Plat of Snowbird Addition, Unit 4, generally located northeast of the intersection of Tiana Terrace and Snowbird Drive, based on conformance with the Manhattan Urban Area Subdivision Regulations.

\* **ORDINANCE NO. 6856 – AMEND FINAL DEVELOPMENT PLAN – 17<sup>TH</sup> STREET PROPERTIES PUD**

The Commission overrode the Manhattan Urban Area Planning Board's recommendation and approved Ordinance No. 6856 amending the Final Development Plan of the 17<sup>th</sup> Street Properties Commercial Planned Unit Development, generally located southeast of the intersection of S. 17<sup>th</sup> Street and Yuma Street, and Ordinance No. 6768, to allow the existing pole sign as described in "Option Two" (*See Attachment No. 1*) submitted by the applicant showing a painted pole with limestone base, along with the amendments to allow banner signs and a reduction of off-street parking, based on specifically stated findings, and including Condition of Approval No. 1 from the Staff Report (*See Attachment No. 2*), as follows: Grand opening banner signs shall be permitted for a period not to exceed thirty (30) consecutive days.

### **ORDINANCE NO. 6857 – REZONE – TRACT A, SCENIC MEADOWS, UNIT THREE**

The Commission approved Ordinance No. 6857 rezoning Tract A, Scenic Meadows Addition, Unit Three, generally located east of Scenic Drive and 400 feet south of the intersection of Fossilridge Drive and Scenic Drive, from R-1/AO, Single-Family Residential District with Airport Overlay District, to R/AO, Single-Family Residential District with Airport Overlay, based on the findings in the Staff Report (*See Attachment No. 3*) and the recommendation of the Planning Board.

### **ORDINANCE NO. 6858 – 2011 SERVICE FEES – AGGIEVILLE BUSINESS IMPROVEMENT DISTRICT**

The Commission approved Ordinance No. 6858 continuing the establishment of the Aggieville Business Improvement District with the proposed changes in fees and levying Business Improvement Service Fees for 2011.

### **ORDINANCE NO. 6859 – 2011 SERVICE FEES – DOWNTOWN BUSINESS IMPROVEMENT DISTRICT**

The Commission approved Ordinance No. 6859 continuing the establishment of the Downtown Business Improvement District with the proposed changes in fees and District boundaries, and levying Business Improvement service fees for 2011.

## CONSENT AGENDA (CONTINUED)

\* **FIRST READING – NO GAME DAY PARKING ALONG HILLVIEW DRIVE**

Brian Willis, 2335 Hillview Drive, President, Stonegate Homeowners Association, informed the Commission that safety is paramount, and provided other potential ideas that would be better than installing large signs year around to accomplish this. He requested that the Commission table the item to allow the Association to work with City Staff to come up with a better solution that the neighborhood and residents want.

Ronnie Elmore, 2412 Hillview Drive, informed the Commission of cars that park under the current signs and that he has never seen a car get towed. He stated that if this is a safety issue, then the no parking needs to be enforced and the cars parking in the no parking areas need to be towed.

Jerry Snyder, Director of Fire Services, informed the Commission that his main concern is safety and accessibility of emergency vehicles.

Dale Houdeshell, Director of Public Works, provided additional information on the current no parking signs and voiced concern in the consideration of removable signs.

After discussion of the Commission, the majority agreed to table the item and allow the neighborhood association to work with City Staff to come up with a better solution.

\* **FIRST READING – AMEND RECOVERY ZONE FACILITY AND INDUSTRIAL REVENUE BONDS – GTM SPORTSWEAR**

The Commission approved first reading of an ordinance amending Ordinance No. 6850 authorizing the issuance of Recovery Zone Facility Bonds (Series A-\$1,240,000.00; Series B-\$850,000.00) and Industrial Revenue Bonds (Series C-\$1,060,000.00) for GTM Sportswear, Inc., located at 520 McCall Road.

\* **RESOLUTION NO. 110210-A/MEMORANDUM OF UNDERSTANDING – TAKE CHARGE ENERGY CHALLENGE**

Mayor Snead provided an overview on the item.

The Commission approved Resolution No. 110210-A to accept the Take Charge Energy Challenge and approved a Memorandum of Understanding with the Climate and Energy Project.

## CONSENT AGENDA (CONTINUED)

### RESOLUTION NO. 110210-B – KDOT AGREEMENT – SOUTH DELAWARE AVENUE RAILROAD CROSSING

The Commission approved Resolution No. 110210-B authorizing the Mayor and City Clerk to execute an agreement (Agreement No. 006113003) with KDOT for a new crossing signal assembly and gates at South Delaware Avenue and Union Pacific Railroad tracks south of K-18.

### NEGOTIATE CONTRACT – CONSULTANT – FIXED-ROUTE TRANSIT IMPLEMENTATION PLAN

The Commission approved the selection of HDR Engineering, Inc, of Kansas City, Missouri, to prepare the Fixed-Route Transit Implementation Plan and authorized City Administration to negotiate a contract for services.

\* **AWARD CONTRACT – SUNSET ZOO EDUCATION/ENTRY BUILDING (SZ0901)**

Curt Loupe, Director of Parks and Recreation, responded to questions from the Commission regarding the timeframe on the project and budget limitations that presented the inability to include a storm shelter.

Jason Hilgers, Assistant City Manager, provided additional information on the item and informed the Commission that the budgeted amount was approved by the voters and that it would be a challenge to cut \$100,000.00 from the construction budget.

Commissioner Strawn stated that the City should have optioned the alternative for an estimated \$100,000.00 storm shelter. He said that public safety is the number one priority and need to include a storm shelter. If a storm shelter cannot be built within budget, the item should be either tabled or rejected.

After further discussion of the Commission, Curt Loupe, Director of Parks and Recreation, responded to questions from the Commission and reiterated its desire to include a storm shelter. He said that this item would need to be included at the beginning of the project and would work with the architect on potential areas to cut or find another funding source.

Jason Hilgers, Assistant City Manager, provided additional information on the item and discussed the potential use of a change order or possible savings realized from the project.

Curt Loupe, Director of Parks and Recreation, informed the Commission that City staff is committed towards finding savings in the project and understood the desire of the Commission to ensure the construction of a storm shelter.

## CONSENT AGENDA (CONTINUED)

\* **AWARD CONTRACT – SUNSET ZOO EDUCATION/ENTRY BUILDING (SZ0901) (CONTINUED)**

The Commission discussed and reiterated the importance to construct a storm shelter based on the budget approved by the taxpayers.

Jason Hilgers, Assistant City Manager, provided clarification on the motion proposed and stated that if the desire is to keep the costs consistent with the amount that has been approved by the voters, then City Staff will try to find the money necessary without increasing the budget. He stated that if that could not be done, then the item would come back to the Commission.

The Commission accepted the Architect's Opinion of Probable Cost in the amount of \$3,200,477.00 and awarded a construction contract to National Builders, Inc., of Wichita, Kansas, in the negotiated amount of \$3,200,000.00 for the base bid plus \$4,000.00 for Alternate #5 for Builder's Risk Insurance for a total cost of \$3,204,000.00 for the Sunset Zoo Educational/Entry Building (SZ0901).

**RESOLUTION NO. 110210-C – ISSUE GENERAL OBLIGATION BONDS - SUNSET ZOO EDUCATION/ENTRY BUILDING (SZ0901)**

The Commission approved Resolution No. 110210-C authorizing construction and the issuance of General Obligation Bonds for the Sunset Zoo Educational/Entry Building (SZ0901).

\* **AWARD CONTRACT – COMMUNITY DEVELOPMENT BLOCK GRANT SIDEWALK IMPROVEMENT PROJECT (SW1001)**

The Commission accepted the Engineer's Estimate in the amount of \$190,413.00 and awarded a construction contract in the amount of \$120,851.00 to Middlecreek Corporation, of Peabody, Kansas, for the Community Development Block Grant Sidewalk Improvements Project (SW1001).

**CHANGE ORDER NO. 1-FINAL – 2010 CURED-IN-PLACE PIPE SEWER LINING (SS1005)**

The Commission approved Change Order No. 1-Final resulting in a net increase in the amount of \$28,265.55 (+8.2%) to the contract with Re-Pipe Construction, Inc., of Houston, Texas, for the 2010 Cured-In-Place Pipe Sewer Lining Project (SS1005).

\* **BURIAL OF UNCLAIMED DECEDENTS**

Commissioner Morris-Hardeman provided additional information on the item.

## CONSENT AGENDA (CONTINUED)

\* **BURIAL OF UNCLAIMED DECEDENTS (CONTINUED)**

The Commission approved the recommendation of the Cemetery Advisory Board to waive burial space charges to Riley County for the burial of unclaimed decedents, with burial space ownership to be retained by the City of Manhattan.

\* **NEGOTIATE CONTRACT – FOOD AND BEVERAGE SERVICE – MANHATTAN REGIONAL AIRPORT**

Peter Van Kuren, Airport Director, responded to questions from the Commission regarding subsidization concerns for potential equipment and operation costs. He then provided additional information on the item.

The Commission authorized City Administration to negotiate an Agreement for food and beverage service at the Manhattan Regional Airport with G4 Investments, LLC, of Manhattan, Kansas.

**BOARD APPOINTMENT**

The Commission approved the Bicycle Advisory Committee appointment by Mayor Snead of Michael Wesch, 2041 Plymouth Road, to a three-year Citizen-At-Large term. Mr. Wesch's term will begin immediately and will expire October 31, 2013.

After additional discussion, Commissioner Morris-Hardeman moved to approve the consent agenda, with the exception of Item H-FIRST READING – NO GAME DAY PARKING ALONG HILLVIEW DRIVE, which was tabled. Commissioner Strawn seconded the motion. On a roll call vote, motion carried 5-0, with the exception of Item E-ORDINANCE NO. 6856 – AMEND FINAL DEVELOPMENT PLAN – 17<sup>TH</sup> STREET PROPERTIES PUD, which carried 4-1, with Commissioner Sherow voting against the motion, and with the exception of Item I-FIRST READING – AMEND RECOVERY ZONE FACILITY AND INDUSTRIAL REVENUE BONDS – GTM SPORTSWEAR, with Commissioner Strawn abstaining from the item.

## GENERAL AGENDA

**FIRST READING - ISSUE - NORTH TRANSPORTATION DEVELOPMENT DISTRICT (TDD) BONDS**

Emily Campbell, Budget and Audit Officer, introduced the item.

Joe Norton, Gilmore & Bell, presented an overview on the item. He then responded to questions from the Commission.

## GENERAL AGENDA (CONTINUED)

### FIRST READING - ISSUE - NORTH TRANSPORTATION DEVELOPMENT DISTRICT (TDD) BONDS (CONTINUED)

Andy Kane, D.A. Davidson, provided additional information on the process, credit ratings received, and on the TDD Bond issuance.

Bernie Hayen, Director of Finance, responded to questions from the Commission and provided additional information on the item.

Jason Hilgers, Assistant City Manager, provided additional information on Transportation Development Districts and revenues captured.

After discussion, Commissioner Sherow moved to approve Resolution No. 110210-D authorizing the Preliminary Official Statement for the TDD Bonds and first reading of the TDD bond ordinance. Commissioner Pepperd seconded the motion.

Jason Hilgers, Assistant City Manager, and Bernie Hayen, Director of Finance, responded to questions from the Commission on the TDD and on the early repayment performance for the TDD used for the expansion project for Wal-Mart.

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

### FIRST READING – REZONE - WEST LOOP SHOPPING CENTER PUD

Eric Cattell, Assistant Director for Planning, presented the proposed buildings, structures, and phasing; PUD signage; lighting; drainage; traffic, circulation, and parking; landscaping and screening; neighborhood character and compatibility; and comprehensive plan in association with the item. He then responded to questions from the Commission regarding the PUD versus C-2 zoning and on the proposed landscaping plan.

Anne McBride, representing Centro, the shopping center owner, provided additional information discussed during the Manhattan Urban Area Planning Board meeting and the Board's approval of the item. She then responded to questions from the Commission on the PUD process and expense, the existing curb cut request from the owner of Pizza Hut, and provided additional information on the West Loop Shopping Center PUD.

Jason Hilgers, Assistant City Manager, provided additional information on the rezoning request and staff recommendation.

Rob Ott, City Engineer, presented information on the recommendation for a right-in right-out curb cut for Pizza Hut and the regulations that were followed in making that recommendation due to safety factors. He provided additional information on the peak hours and traffic issues. He then responded to questions from the Commission regarding traffic concerns and the drainage system.

## GENERAL AGENDA (CONTINUED)

### FIRST READING – REZONE - WEST LOOP SHOPPING CENTER PUD (CONTINUED)

Commissioner Sherow moved to approve first reading of an ordinance rezoning the West Loop Shopping Center from C-2, Neighborhood Shopping District, to PUD, Commercial Planned Unit Development District, based on the findings in the Staff Report (*See Attachment No. 4*), with only the 15 Conditions of Approval as recommended by the Manhattan Urban Area Planning Board. Commissioner Pepperd seconded the motion.

After additional discussion of the Commission, on a roll call vote, motion carried 5-0.

### PETITION/RESOLUTION NO. 110210-E - WEST LOOP SHOPPING CENTER PLANNED UNIT DEVELOPMENT INTERSECTION (ST1015)

Rob Ott, City Engineer, presented the item.

After discussion, Commissioner Sherow moved to find the petition sufficient and approve Resolution No. 110210-E finding the project advisable and authorizing construction for West Loop Shopping Center Street Improvements at the intersection of Claflin Road and Beechwood Terrace (ST1015). Commissioner Pepperd seconded the motion. On a roll call vote, motion carried 5-0.

At 9:05 p.m., the Commission took a brief recess.

### FIRST READING – AMEND FINAL DEVELOPMENT PLAN - LOT 1, MANHATTAN MARKETPLACE SHOPS, UNIT ONE, AND ORDINANCE NO. 6682; and PRELIMINARY DEVELOPMENT PLAN - LOT 14, MANHATTAN MARKETPLACE, UNIT TWO, AND ORDINANCE NO. 6544

Eric Cattell, Assistant Director for Planning, presented the item. He then responded to questions from the Commission.

Bob Welstead, Dial Realty, presented additional information on the new Dick's Sporting Goods store, provided an update on retail stores in the North End Redevelopment, and talked about the importance of housing provided by McCullough Development.

Charlie Busch, Chief Executive Officer (CEO), McCullough Development, Inc., presented background information on the residential component. He informed the Commission that the goal is to complete residential housing that will make the community proud.

## GENERAL AGENDA (CONTINUED)

### FIRST READING – AMEND FINAL DEVELOPMENT PLAN - LOT 1, MANHATTAN MARKETPLACE SHOPS, UNIT ONE, AND ORDINANCE NO. 6682; and PRELIMINARY DEVELOPMENT PLAN - LOT 14, MANHATTAN MARKETPLACE, UNIT TWO, AND ORDINANCE NO. 6544 (CONTINUED)

Rich Seidler, Director of Development, McCullough Development, Inc., provided an update on the apartment units constructed with Schultz Construction and the significant investment that McCullough Development has made in the North End Redevelopment. He presented additional information on the housing component and urged the Commission to approve the item as presented. He then responded to questions from the Commission about resident parking, area density, and mix modes of transportation.

Tom Hittle, President, Hittle Landscaping Architects, provided information on the landscaping proposed and responded to questions from the Commission.

Bob Welstead, Dial Realty, responded to questions from the Commission regarding the proposed graphics on the side of Dick's Sporting Goods store. He then provided additional information on the item and conditions of the Manhattan Urban Area Planning Board.

Tom Hittle, President, Hittle Landscaping Architects, provided additional information on the proposed landscaping.

After discussion, Commissioner Strawn moved to approve first reading of an ordinance amending the Final Development Plan of Lot 1, Manhattan Marketplace Shops, Unit One, and Ordinance No. 6682; and, amending the Preliminary Development Plan of Lot 14, Manhattan Marketplace, Unit Two, and Ordinance No. 6544, to be known as Manhattan Marketplace Shops, Unit Three, Planned Unit Development, generally located north of Osage Street, east of N. 4<sup>th</sup> Street, west of N. 3<sup>rd</sup> Place, and south of Bed, Bath & Beyond, based on the findings in the Staff Report (*See Attachment No. 5*), with the six conditions of approval as modified and recommended by the Manhattan Urban Area Planning Board. Commissioner Sherow seconded the motion.

After additional discussion of the Commission, on a roll call vote, motion carried 5-0.

### FIRST READING – ANNEX AND REZONE - STONE TRACT NO. 1

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

## GENERAL AGENDA (CONTINUED)

### FIRST READING – ANNEX AND REZONE - STONE TRACT NO. 1 (CONTINUED)

After discussion, Commissioner Sherow moved to approve first reading of an ordinance annexing the proposed Stone Tract No. 1 Addition, generally located east of N. Scenic Drive, based on conformance with the Comprehensive Plan, the Growth Vision, and the Capital Improvements Program; and, approve first reading of an ordinance rezoning the proposed development from County G-1, General Agricultural District, to R, Single-Family Residential District with AO, Airport Overlay District, based on the findings in the Staff Report (*See Attachment No. 6*) and the recommendation of the Planning Board. Commissioner Peperd seconded the motion. On a roll call vote, motion carried 5-0.

### RESOLUTION NO. 110210-F - PROVISION OF FREE WATER TO CERTAIN ORGANIZATIONS

Bill Frost, City Attorney, presented background information on the item and the proposed resolution. He then responded to questions from the Commission.

Bernie Hayen, Director of Finance, informed the Commission that while working at the League of Kansas Municipalities, he never experienced this type of provision with other municipalities. He then responded to questions from the Commission and stated that U.S.D. 383 was currently being charged for sewer and storm water.

Bill Frost, City Attorney, provided clarification on the tracts of land deeded to the City of Manhattan and stated that the City has already made modifications to the agreement by charging for irrigation water.

Father Joseph Popelka, Pastor, Seven Dolors Catholic Church, 731 Pierre Street, read a letter from the Manhattan Catholic School Administrator and Council of Education requesting that the Commission not rescind the current practice in providing free water to churches and schools. He stated that if the proposed resolution is approved, it would have an impact on their limited budget and urged the Commission to vote no on the proposed resolution.

Wynn Butler, 3600 Windsong Court, informed the Commission that he has been following the water rate issue and voiced concern that the focus should be on the water rate structure first, and to leave churches and schools alone until the rate structure is solved. He stated that charging schools for water would only shift the cost from the school board to the homeowners.

## GENERAL AGENDA (CONTINUED)

### RESOLUTION NO. 110210-F - PROVISION OF FREE WATER TO CERTAIN ORGANIZATIONS (CONTINUED)

David Jones, Campus Pastor, Ecumenical Campus Ministry, 1021 Denison Avenue, asked the Commission to consider that churches do not have taxing authority and to keep in mind the benefits that churches provide to the community. He also asked to be mindful of the savings realized through the passage of the proposed resolution that may be lost in potential litigation and voiced concerns associated with the establishment clause.

Susan Marshall, 3708 Stone Pine Circle, President, U.S.D. 383 Board of Education, read a prepared letter (*See Attachment No. 7*) sent to Mayor Bruce Snead and members of the City Commission, City Manager, and Director of Finance. She requested that the Commission continue the long-standing agreement and stated that the School District believes there is a contract for the benefit of the District that cannot be unilaterally dissolved by resolution and there is no constitutional impediment where schools are concerned. She stated that this is one taxing entity trying to take from another taxing entity and it is just shuffling money out of the school classrooms.

Pete Paukstelis, 3608 Englewood Street, member of U.S.D. 383 Board of Education, informed the Commission that the City should honor the agreement to provide water into perpetuity. He stated that the Commission may not like the deal their predecessors made, but it is a deal that is valid and that he has not heard any good justifications for breaking that deal. He stated the importance of intergovernmental relationships and cooperation with the units of government and asked to continue those relationships.

Bernie Hayen, Director of Finance, responded to questions from the Commission.

Bill Frost, City Attorney, provided additional background information on the item. He then responded to questions from the Commission regarding the process for going into Executive Session.

After discussion of the Commission, Mayor Snead moved to recess into Executive Session until 10:35 p.m. for the purpose of consulting with the City Attorney regarding legal matters that are deemed privileged under the attorney/client relationship. Commissioner Sherow seconded the motion. On a roll call vote, motion carried 5-0.

At 10:35 p.m., Mayor Snead and Commissioners Sherow, Pepperd, Morris-Hardeman, and Strawn came out of Executive Session.

Mayor Snead asked if there was any additional public comment.

## GENERAL AGENDA (CONTINUED)

### RESOLUTION NO. 110210-F - PROVISION OF FREE WATER TO CERTAIN ORGANIZATIONS (CONTINUED)

Doug Messer, 3600 South 24<sup>th</sup> Street, member of U.S.D. 383 Board of Education, expressed his concerns regarding revenue for water and water meters.

Gary Olds, 3308 Frontier Circle, voiced concern with the potential of litigation on this item and asked if it is the intent is to make all things equal. If so, he asked then why not do the same with public housing and have them pay property taxes. He asked that the commitment and promise made to the people of Manhattan continue and to carefully consider the impact of the Commission's decision on the citizens and to keep its promise.

Mayor Snead provided additional information on the item and informed the community that the issue of water rates will be dealt with at a Special City Commission Meeting on Tuesday, November 30, 2010.

Commissioner Sherow stated the need to resolve the water rate schedule and that part of this revolves around the rate structure and around the separation of church and state. He said water is a commodity and like other commodities, the consumer needs to pay for it. He stated that he favored the proposed resolution and did not want to see churches or school districts hurt, but that it was not right to have everyone else subsidizing this.

Commissioner Morris-Hardeman stated that the City's customer base for water is not necessarily reflective of the U.S.D. 383 tax base. She stated that this is an issue of fairness and would support the proposed resolution.

Commissioner Strawn stated that changing the current rate structure is the right thing to do and that he did not believe in taxpayers subsidizing other taxpayers or outside entities. He provided additional comments and stated that he would support the resolution presented.

Commissioner Pepperd stated that he understood the need to address the rate structure and the agreement with the Purcell's into perpetuity. However, he also agreed that the school pays for other commodities such as gas and electric, and water should be no different as a cost and service to the taxpayer.

Mayor Snead provided additional perspectives on the item and reiterated the importance in continuing the City's intergovernmental partnerships and interactions with the school district. He stressed the importance in continuing to work with local schools and churches.

After discussion of the Commission, Commissioner Sherow moved to approve Resolution No. 110210-F discontinuing the practice of providing free water to churches and schools, beginning on July 1, 2011. Commissioner Strawn seconded the motion.

GENERAL AGENDA (CONTINUED)

RESOLUTION NO. 110210-F - PROVISION OF FREE WATER TO CERTAIN ORGANIZATIONS (CONTINUED)

After additional discussion of the Commission, on a roll call vote, motion carried 5-0.

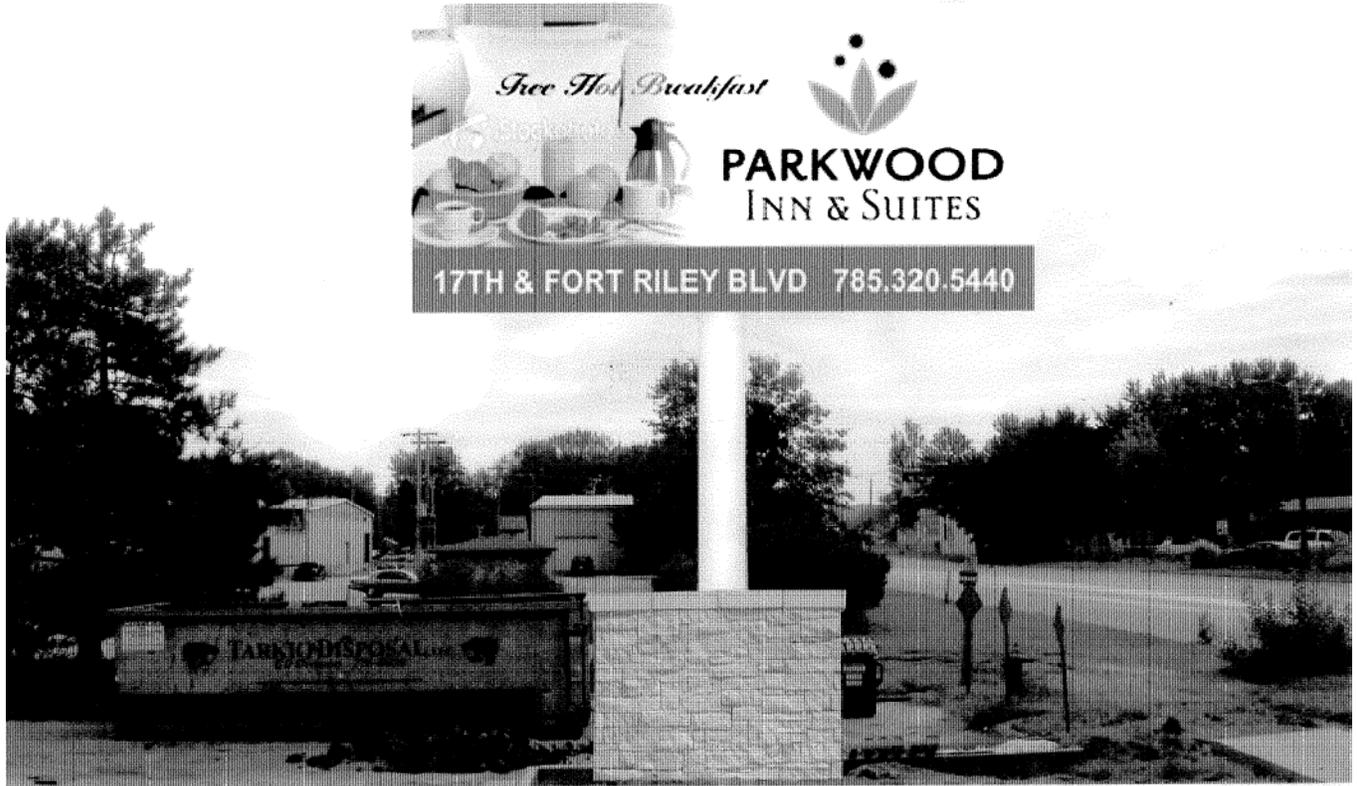
ADJOURNMENT

At 10:55 p.m., the Commission adjourned.

  
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Gary S. Fees, MMC, City Clerk

*Attachment No. 1*

**Option Two**  
**Submitted by Applicant to City Commission on Oct. 5, 2010**



## **STAFF REPORT**

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

## **BACKGROUND**

**APPLICANT:** 17<sup>th</sup> Street Properties – Lee Borck.  
**ADDRESS:** 222 Southwind, Manhattan KS 66503.

**OWNER:** 17<sup>th</sup> Street Properties – Lee Borck.  
**ADDRESS:** 222 Southwind, Manhattan KS 66503.

**LOCATION:** Southeast of the intersection of S. 17<sup>th</sup> Street and Yuma Street intersection;  
Lot 17<sup>th</sup> Street Properties Addition.

**AREA:** 2.07 acres.

**DATE OF PUBLIC NOTICE PUBLICATION:** Thursday, August 19, 2010.

**DATE OF PUBLIC HEARING: PLANNING BOARD:** Thursday, September 9, 2010.

**CITY COMMISSION:** Tuesday, October 5, 2010.

**DESCRIPTION OF PROPOSED AMENDMENT:** Amend condition No. 5 of Ordinance No. 6768, approved July 21, 2009. Condition No. 5 states, “Signage shall be limited to signs proposed in the application, except wall signs on the retail building’s Ft. Riley Boulevard frontage shall be limited to one per business.” Elevations of approved ground signs are attached.

The amendments are proposed to allow:

- An existing two sided former off site advertising (billboard) sign, which is 28.35 feet in height, with each side of the two sided sign 253.75 square feet in area (20.30 feet in width by 12.25 feet in height) located in the southeastern corner of the site to remain on which the hotel and retail center will be advertised., The pole portion of the sign is proposed to be enclosed in limestone and the island will be landscaped.

- Up to two temporary banner signs on the sign face of the existing pole sign up to seven consecutive days for a maximum of five weeks with each banner measuring a maximum dimension of 3feet by 22 feet.
- Remove two off-street parking spaces approved with the Final Development Plan in the location of the sign. A landscaped traffic island around the base of the sign results in the removal of the two off-street parking spaces.

## **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 states in their written application documents that, “The proposed amendment consists of allowing an existing sign within the PUD to remain. The existing sign is in compliance with Article VI, Section 6-211 (B) as set forth in Sections 6-203 (D)(1), 6-203 (E) and 6-203 (F) of the Manhattan, Kansas Zoning Regulations, dated February 16, 2010. The proposed amendment is consistent with the intent and purpose of the approved PUD and has already promoted the efficient development and preservation of the entire PUD. (See enclosed photographs)”

The proposed amendment to allow the existing pole sign is inconsistent with the approved sign plan and Condition No. 5, which states, “Signage shall be limited to signs proposed in the application, except wall signs on the retail building’s Ft. Riley Boulevard frontage shall be limited to one per business.” Adequate ground signs are provided to advertise the hotel and retailers.

Allowing on site grand opening banner signs on Lot 1, 17<sup>th</sup> Street Properties Addition would be consistent with commercial development along Ft. Riley Boulevard.

A reduction of two off-street parking spaces from 138 parking spaces approved with the Final Development Plan to a proposed 136 parking spaces will still provide four more than the minimum 132 parking spaces required.

*Attachment No. 2*

Section 6-211 indicates signage for commercial PUDs, as a general rule, follows the requirements of Section, 6-203, C-2, Neighborhood Shopping District, which the proposed PUD odes, in general. Section 6-203 (E) states the maximum height of a sign shall extend no more than 30 feet above the ground, which the existing sign conforms to at 28.35 feet in height.

The existing sign is 253.75 square feet in area per sign face, based on the applicant's drawing. Only one side of a two sided sign is calculated when determining maximum gross surface area. Section 6-203 (D)(1) for ground or pole signs, however, states, "The total surface area of all signs upon a single zoning lot shall not exceed one (1) square foot for each one (1) foot of linear street frontage which abuts the zoning lot. The total surface area of signs which have a common street frontage shall not exceed one (1) square foot for each one (1) foot of said frontage."

There is an existing approved ground sign approximately 100-feet to the west of the existing pole sign (attachment) whose total square footage is 192 square feet in area. In combination the approved sign and existing pole signs total surface area is 445.75 square feet in maximum gross surface area. Lot 1 has a street frontage along Ft. Riley Boulevard of 280 feet. Total maximum surface area shall not exceed 280 square feet in area, as a general rule, assuming the C-2 District requirements are followed. The proposed maximum square footage is 165.75 square feet more than would be allowed. The applicant suggests that the 315 square feet of the unnamed right-of-way along the east side of Lot 1 should be counted towards the total square footage of signage. The sign is clearly oriented towards traffic along Ft. Riley Boulevard and is not oriented to any traffic on the right-of-way on the east side of Lot 1. As proposed, the sign's maximum square footage is applicable to Ft. Riley Boulevard frontage not a combination of two frontages.

Section 6-203(F) indicates the required sign setback is 10-feet. The proposed sign is 8.1 feet from the south lot line and 8.3 feet from the east lot line.

In addition to the Sections cited above, the C-2 District sign requirements, if applied to the PUD, would allow two ground or pole signs for the Ft. Riley Boulevard street frontage if the street frontage exceeds 600 feet in length. The street frontage is 280 feet, or 320 less than the C-2 District requirement.

If the requirements of Section 6-203 are applied to the existing pole sign it would not meet the requirements of the C-2 District, except for height.

**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, “The changed condition is the existence of a usable sign on the approved PUD that can still be used for promotion of businesses within the PUD. (See enclosed photographs)”

The applicant has verbally indicated the sign was overlooked on the preliminary PUD site plans. The inadvertent oversight of the sign is not a condition of the PUD, which requires the large billboard size sign when adequate signage is allowed as approved.

It is common for commercial development to have banner signs that announce a new business. The reduced parking is a condition created by the proposal to allow the existing pole sign to remain.

Signage conditions for retail centers along Ft. Riley Boulevard between the S. 17<sup>th</sup> Street and Ft. Riley Boulevard intersection and the S. 3<sup>rd</sup> Street and Ft. Riley Boulevard intersection reflect a reduction in the number and size of signs associated with the retail centers. The proposed amendment would be inconsistent with the retail center character along Ft. Riley Boulevard.

**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:** The applicant states, “The approved PUD and development within the PUD has already greatly benefited the public health and safety within the PUD and surrounding areas. No longer are there eyesores in the area or concealed areas where crimes could have been committed. The proposed amendment will not detract to this gain of public health and safety in the area. The retention and use of the existing sign will benefit the convenience and general welfare of all businesses in the PUD and not a sole business or person.”

There appears to be no relative gain to the public health, safety, convenience or general welfare that approval of the amendment to allow the existing pole sign would accomplish. The amendment would allow the applicant to use a sign that was overlooked and not included as part of the approved PUD sign plan and not shown on the site plan.

The banner signs would allow the general public to be aware of grand openings. The reduction of off-street parking does not adversely affect the public.

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

**1. LANDSCAPING:** Landscaping consisting of three shrubs and mulch ground cover is proposed in the island in which the existing sign is proposed. The shrubs are a continuation of the shrubs along the street frontage approved with the current Final Development Plan.

**2. SCREENING:** Not applicable to the proposed amendment.

**3. DRAINAGE:** Not applicable to the proposed amendment.

**4. CIRCULATION:** Two off-street parking spaces will be removed due to the existing pole sign. The amendment notes that 138 off-street parking spaces are provided, 132 off-street parking spaces are the minimum required, and 136 off-street parking spaces are proposed. Adequate off-street parking is provided. There should be no other impact on circulation.

**5. OPEN SPACE AND COMMON AREA:** Not applicable to the proposed amendment.

**6. CHARACTER OF THE NEIGHBORHOOD:** The neighborhood character is a combination of commercial and industrial uses, which are generally south of Yuma Street and Ft. Riley Boulevard and low density residential north of Yuma Street and west of S. 17<sup>th</sup> Street. Yuma Street and S. 17<sup>th</sup> Street have defined the separation of the commercial/industrial uses and residential for at least 45 years. Longs Park, a public city park, is immediately north of the site with low density residential neighborhoods further to the north and east of Longs Park. The commercial character of the site with respect to the residential neighborhood was established as early as 1965. Prior to 1965 the site was an industrial zone.

S. 17<sup>th</sup> Street is a major north to south collector street leading extending from Ft. Riley Boulevard to Poyntz Avenue, Anderson Avenue, and the KSU campus. Prior to construction of Ft. Riley Boulevard, Yuma Street was a major east to west traffic route. Yuma Street is currently classified as a local street.

## **MATTERS TO BE CONSIDERED WHEN REZONING**

**1. EXISTING USE:** Recently commercial retail center and hotel.

**2. PHYSICAL AND ENVIRONMENTAL CHARACTERISTICS:** Generally a flat site which drains to the southeast. The perimeter of the commercial retail/hotel site is landscaped space with interior off-street parking.

**3. SURROUNDING LAND USE AND ZONING:**

**(a.) NORTH:** Yuma Street, Longs Park, a City Park, single-family and two-family dwelling units; R-2, Two-Family Residential District with TNO, Traditional Neighborhood Overlay District.

**(b.) SOUTH:** Ft. Riley Boulevard, auto related uses and landscaping business/contractor; I-3, Light Industrial District.

**(c.) EAST:** Unnamed public right-of-way (25-feet in width), industrial printing and publishing, locksmith; I-3 District, and C-5 District.

**(d.) WEST:** S. 17<sup>th</sup> Street, single-family and two-family dwelling units: R-2/TNO Districts.

**4. CHARACTER OF THE NEIGHBORHOOD:** See above under Additional Matters To Be Considered When Amending a PUD, number 6.

**5. SUITABILITY OF SITE FOR USES UNDER CURRENT ZONING:** The site is zoned for and constructed as a combination commercial retail center and hotel. Adequate signage is provided for as a part of the approved PUD sign plan.

**6. COMPATIBILITY OF PROPOSED DISTRICT WITH NEARBY PROPERTIES AND EXTENT TO WHICH IT MAY HAVE DETRIMENTAL AFFECTS:** The commercial PUD is consistent with nearby commercial and industrial properties. While off-site advertising signs (billboards) are located along Ft. Riley Boulevard, signage for retail centers along the street corridor is allowed but is smaller in size and number than an off-site advertising sign.

**7. CONFORMANCE WITH COMPREHENSIVE PLAN:** The site is shown on the Downtown Core Neighborhoods Future Land Use Map as Community Commercial (CC), which reflects the existing approved PUD. The PUD conforms to the Comprehensive Plan.

**8. ZONING HISTORY AND LENGTH OF TIME VACANT AS ZONED:**

- 1926-1940: E, Light Industrial.  
1940-1965: F, Heavy Industrial.  
1965-1969: C, Local Business.  
1969-1977: C-5 for existing grocery store and church building.  
1977-2009: C-2 for existing grocery store and church building (Ord. No.3496.)  
1969-2009: C-5 for balance of the site.
- June 15, 2009: Manhattan Urban Area Planning Board recommends approval of rezoning of the 17<sup>th</sup> Street Properties Commercial PUD from C-2, Neighborhood Shopping District, and C-5, Highway Service Commercial District, to PUD, Commercial Planned Unit Development District.
- July 7, 2009: City Commission approves first reading of an ordinance rezoning the 17<sup>th</sup> Street Commercial PUD.
- July 21, 2009: City Commission approves Ordinance No. 6768 rezoning the 17<sup>th</sup> Street Commercial PUD.
- September 10, 2009 Manhattan Urban Area Planning Board, on a vote of 6-0, approved the Final Plat of Lot 1, 17<sup>th</sup> Street Properties Addition Commercial PUD, based on conformance with the Manhattan Urban Area Subdivision Regulations and approved the Final Development Plan for Lot 1, based on conformance with the approved PUD.
- October 13, 2009 City Commission accepts easements and rights-of-way as shown on the Final Plat of 17<sup>th</sup> Street Properties Addition Commercial PUD.

**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 is in a commercial zoning generally subject to the sign regulations of the C-2 District. The approved PUD is consistent with that general intent. Use of the former billboard sign is not a structural type of sign allowed in the C-2 District. The existing sign does not conform to the C-2 requirements, except for height.

**RELATIVE GAIN TO THE PUBLIC HEALTH, SAFETY AND WELFARE THAT DENIAL OF THE REQUEST WOULD ACCOMPLISH, COMPARED WITH THE HARDSHIP IMPOSED UPON THE APPLICANT:** Denial of the request would not be a gain to the public because minimal impact on the public is expected as a result of traffic or storm water. There appears to be no hardship on the owner if the pole sign amendment is denied. The balance of the amendments may be a hardship.

**10. ADEQUACY OF PUBLIC FACILITIES AND SERVICES:** Public utilities and services are adequate. The sign is located in a utility easement, which the applicant filed after the Final Plat was approved and filed. If the sign remains it cannot interfere with the purpose of the easement.

**11. OTHER APPLICABLE FACTORS:** None.

**12. STAFF COMMENTS:** City Administration recommends approval of Amendments of the Final Development Plan and Ordinance No. 6768 to allow grand opening banner signs and a reduction of the required number of off-street parking spaces, and denial of the Amendment to allow the existing pole sign, with the following conditions of approval:

1. Grand opening banner signs shall be permitted for a period not to exceed thirty (30) consecutive days.
2. The existing pole sign shall be removed within sixty (60) days of the date of denial of the Amendment.
3. Upon removal of the existing pole sign, the existing traffic island shall be landscaped as shown on the Amendment Final Development Plan Site Plan dated August 23, 2010.

### **ALTERNATIVES:**

1. Recommend approval of the proposed Amendments of the Final Development Plan of 17<sup>th</sup> Street Properties Commercial Planned Unit Development, and Ordinance No. 6768, stating the basis for such recommendation.
2. Recommend denial of the proposed Amendments, and Ordinance No. 6768, stating the specific reasons for denial.
3. Modify the proposed Amendments, for specifically stated reasons, stating the basis for such recommendation.
4. Table the proposed Amendments to a specific date, for specifically stated reasons.

**POSSIBLE MOTION:**

The Manhattan Urban Area Planning Board recommends approval of Amendments of the Final Development Plan and Ordinance No. 6768 to allow grand opening banner signs and a reduction of the required number of off-street parking spaces, and denial of the Amendment to allow the existing pole sign, based on the findings in the Staff Report, with the three conditions of approval recommended by City Administration.

**PREPARED BY:** Steve Zilkie, AICP, Senior Planner

**DATE:** September 2, 2010  
10037

**STAFF REPORT  
ON AN APPLICATION TO REZONE PROPERTY**

**FROM:** R-1, Single-Family Residential District with AO, Airport Overlay District

**TO:** R, Single-Family Residential District with AO, Airport Overlay District.

**APPLICANT:** Jeff Hancock – SMH Consultants

**ADDRESS:** 4201B Anderson Avenue, Suite 2, Manhattan, KS 66503

**OWNER:** Angela Britt

**ADDRESS:** 1400 S. Scenic Drive, Manhattan, KS 66503

**LOCATION:** Generally located east of Scenic Drive and 400 feet south of the intersection of Fossilridge Drive and Scenic Drive.

**AREA:** 652,658 square feet (14.98 acres)

**DATE OF PUBLIC NOTICE PUBLICATION:** Thursday, August 19, 2010

**DATE OF PUBLIC HEARING: PLANNING BOARD:** Thursday, September 9, 2010  
**CITY COMMISSION:** Tuesday, October 5, 2010

**EXISTING USE:** Agriculture

**PHYSICAL AND ENVIRONMENTAL CHARACTERISTICS:** The southwest portion of the site is relatively flat and used as row crop farmland. The remaining portion of the site is a wooded, natural drainage area for the Eureka Valley. The agricultural area drains to the north and east to the drainage area. The drainage area also collects stormwater runoff from the surrounding properties to the north, west and south. The site is entirely within Zone AE, 1% Annual Chance Flood Plain (commonly referred to as the 100 Year Flood Plain). No mapped Floodway is located on the site.

The entire site is within the Conical Zone of Manhattan's Regional Airport, which requires that the AO, Airport Overlay District, be added to the site. Future uses (structures and trees), which are within the limits of the Conical Zone may be required to apply for, and be granted, an Airport Compatible Use Permit prior to construction, planting or change to the structure or tree (see below under CONSISTENCY WITH INTENT AND PURPOSE OF THE ZONING ORDINANCE for further information concerning the AO District).

**SURROUNDING LAND USE AND ZONING:**

(1) **NORTH:** Developing single-family residential neighborhoods and Common Area and a Conservation Easement: R-1, Single-Family Residential District with AO, Airport Overlay District and R/AO District.

(2) **SOUTH:** Faith Baptist Church and Farmland; County G-1 District.

(3) **EAST:** Farmland and Rangeland; County G-1 District.

(4) **WEST:** Farmland and Rangeland; County G-1 District.

**GENERAL NEIGHBORHOOD CHARACTER:** The area is comprised of a developing single-family residential neighborhood to the north, a church to the south and agricultural land used for row crops and rangeland.

**SUITABILITY OF SITE FOR USES UNDER CURRENT ZONING:** The site is zoned, R-1/AO, Single-Family Residential District and Airport Overlay District. The majority of the site is the drainage area for the Eureka Valley and is in Zone AE, 1% Annual Chance Flood Plain. The drainage area is dedicated as Common Area and Conservation Easement on the Final Plat of Scenic Meadows, Unit Three. The elevation of the site outside of the Common Area and Conservation Easement is from 1024 feet to 1028 feet, which is nine (9) feet to five (5) feet below the Base Flood Elevation (BFE) of 1033 feet. Appropriate fill could be added to the site to raise the land to at least one (1) foot above the BFE, which is required by Article X, Flood Plain Regulations, to create developable areas for single-family homes. The amount of fill needed to create developable areas on the site may be cost prohibitive and would most likely disrupt the natural drainage channel of the Eureka Valley. Because of the physical characteristics of the site and dedicated Common Area and Conservation Easement, the site may be unsuitable for the permitted and conditional uses under the current R/AO Zoning District.

The southwest area of the site is currently being used as row crop agricultural land. The R-1 District does not permit agricultural uses. Section 8-404 states:

Uses. All legally nonconforming uses of land, not involving a structure or involving only structures which are accessory to such use of land, shall be eliminated or made to conform with the regulations of the zoning district in which located within two years from the date such use became legally nonconforming.

To bring the use of the property into compliance with the Zoning Regulations, the applicant is proposing to rezone the site from R-1/AO Districts to R/AO Districts. The R District permits agricultural uses, such as row-crop farmland.

**COMPATIBILITY OF PROPOSED DISTRICT WITH NEARBY PROPERTIES AND EXTENT TO WHICH IT MAY HAVE DETRIMENTAL AFFECTS:** The adjacent neighbors to the north are within a developing single-family residential neighborhood. Immediately to the north is Tract B, Scenic Meadows Addition, Unit Three, which has a majority of its area dedicated as a Common Area and Conservation Easement. Beyond Tract B are the residential homes in the Scenic Meadows Addition. To the south is a church.

There is the potential for conflicts between the church and the residential uses and the agricultural use because of noise, dust and smells from the row crop use. However, the agricultural use has been present on the site before the recent development of the low-density single-family neighborhood (Scenic Meadows Addition was annexed and rezoned in October, 2006 and has had subsequent plats of the residential areas since that time). The surrounding properties to the south, east and west are agricultural uses. The agricultural use will be separated from the single-family homes to the north by Tract B, which is approximately 500 feet wide at its widest point. The proposed rezoning would bring the agricultural use into compliance with the City's Zoning Regulations. Because the existing agricultural use has been present before the residential use in the area was developed and the current and future residents of the neighborhood to the north are separated by Tract B and should be aware of the use of the site, the proposed rezoning should be compatible with the nearby properties.

The property owner's consultant, Jeff Hancock with SMH Consultants, held a neighborhood meeting on May 4<sup>th</sup>, 2010 at Britt's Produce Store. No one attended the meeting other than the consultant and the applicant.

**CONFORMANCE WITH COMPREHENSIVE PLAN:**

The site is shown on the Future Land Use map in the Southwest Planning Area as a combination of Agriculture and Environmental Sensitive Areas. The entire Scenic Meadows Addition is shown on the Future Land Use map in the Southwest Planning Area as a combination of Agriculture, Environmental Sensitive Areas and Residential Low/Medium Density (RLM). The RLM portion is a small area located in northeast portion of the site on an upper ridge. Policy statements are in Chapter 4 of the Comprehensive Plan.

**Agricultural Policies**

Agricultural areas are primarily areas for farming, ranching, and other agriculturally related uses and very low density rural residential. The Agricultural category can be characterized in several ways, including: areas that are not anticipated to be developed within the 20-year planning horizon of this plan; areas which are encouraged to continue to be used for agriculture within the context of both market demand and the desires of individual property owners; and, residences, which are typically limited to those for owners/operators of the agricultural enterprise.

### **Environmental Values and Constraints Policies**

Environmentally sensitive constraints on the site consist 100 and 500 Year Flood Plain, the

Conical zone of the Airport, wetlands, and secondary streams. As noted on the Environmental Values and Constraints Map, the wetland areas, both within the site and in other areas in the community, were identified by the Northern Flinthills Audubon Society as natural areas of highest priority for preservation. A portion of the site is identified as Prime Agricultural Land. The wetlands, secondary stream corridors, and flood plains should incorporate sensitive design practices to minimize physical and environmental impacts, reduce excessive grading of natural topography and excessive removal of natural vegetation. Policy statements are in Chapter 5 of the Comprehensive Plan include:

#### ***NRE 1: Corridors, Buffers, and Linkages and Preserved Open Space***

The City and County should use a variety of methods (both public and private) to facilitate the creation of a continuous, permanent, system of open space corridors using natural features such as preserved open space areas, drainages, streams, and rivers to the extent possible. Corridors should be identified during the subdivision or master planning process and should be used to provide linkages within and between non-contiguous parks, environmentally sensitive and preserved open space areas, as well as neighborhoods and other development areas. Buffers can also be used to provide a transition between different intensities of uses. The current width and shape and other features of a naturally occurring corridor (such as a drainage way) should be preserved, in order to maintain its environmental integrity and avoid creating an “engineered” appearance.

#### ***NRE 2: Parks and Recreation***

The City and County should ensure that park and recreation facilities provide an adequate range of recreational opportunities. Facilities shall be designed in a manner that responds to the needs of the intended users. More specific policies and design guidelines are provided in the previously developed Comprehensive Parks Master Plan, Linear Park Master Plan - Phase II, Strategic Park Plan, Bicycle Master Plan, and the Fairmont Park Master Plan

#### ***NRE 3: Trails Network***

The City and County shall use a variety of methods to develop a system of open space that is connected, continuous, and permanent. The Linear Trail, which currently follows parts of Wildcat Creek, and the Big Blue and Kansas Rivers, represents the beginnings of a network of trails and open space that will link various areas of the City. Tributary drainage channels and other potential pedestrian corridors should also be incorporated as part of the overall network as they become integrated into residential areas.

***NRE 4: Environmentally Sensitive Areas: Wildlife Habitat and Corridors, Wetlands, Riparian Areas and Prairie Ecosystems***

The Urban Area is home to a variety of environmentally sensitive areas, including: Wildcat Creek, the Big Blue and Kansas Rivers, numerous secondary stream corridors, drainage areas, and wetlands, as well as prairie ecosystems. In addition to their scenic quality, these areas provide other benefits, such as water quality enhancement and flood control, potential eco-tourism, and also serve as important wildlife habitat. The City and County shall work to ensure that development impacts upon these areas are minimized.

***NRE 5: Environmentally Sensitive Site Design***

The City and County shall ensure that environmentally sensitive site design practices are used in new development. Sensitive site design practices can minimize unnecessary physical and visual impacts upon the surrounding landscape, caused by excessive removal of existing vegetation or severe roadway cuts, and excessive grading of natural topography.

***NRE 6: Natural Hazards***

Development shall be prohibited in areas where natural hazards have been identified which have the potential to endanger life, resources, and property. Within the Manhattan Urban Area, these hazards include steep slopes (20% or greater slope), floodways, and other special flood hazard areas.

***Eureka Valley Special Planning Area Policies***

The site is located at the northeast edge of the Eureka Valley Special Planning Area as described in Chapter 13 of the Comprehensive Plan. The Eureka Valley is intended to be an area for service industrial, office and research park, and limited heavy industrial uses in targeted areas. Commercial uses are encouraged within employment areas to serve employees. Future development should be compatible and consistent with the goals and policies of the Airport Master Plan. Wetlands should be protected.

The proposed rezoning conforms to the Comprehensive Plan as previously determined with the Scenic Meadows Addition subdivision in 2006. The area was annexed, zoned and platted in response to the market demand for a variety of residential uses. The proposed rezoning is to a more restrictive residential district in terms of minimum lot area. If the area was to be developed for single-family homes, the site would potentially have less net residential density than would be allowed in the current R-1 District. The application documents state that the proposed use is to be for agriculture.

**ZONING HISTORY AND LENGTH OF TIME VACANT AS ZONED:** The site has remained vacant to date, with a portion of the site used for farmland for an undetermined amount of time.

- February 6, 2006      The Manhattan Urban Area Planning Board conducted a Public Hearing to consider the amendment, which would have designated the area for Residential Low/Medium Density, Neighborhood Commercial, Environmentally Sensitive Area, Parks and Recreation, and Preserved Open Space. The Planning Board conducted a public hearing and declined to amend the Comprehensive Plan on a vote of 4-1.
- May 1, 2006          The applicant submitted an application through the Riley County Planning and Development Department to consider the Preliminary Plat of the Scenic Meadows Subdivision and to rezone the 117-acre tract of land from “G-1” (General Agricultural) to “R-PUD” (Residential Planned Unit Development). The Manhattan Urban Area Planning Board tabled the public hearings to the Planning Board’s May 15<sup>th</sup> meeting.
- May 2, 2006          The applicant submitted a request to the City of Manhattan for water and sanitary sewer services for the Scenic Meadows Addition. The City Commission, on a vote of 5-0, moved to provide water and sanitary sewer services contingent on approval of applications for annexation, rezoning, and platting.
- May 15, 2006        At the request of the applicant, the Manhattan Urban Area Planning Board tabled the rezoning and platting public hearings submitted to Riley County for a maximum of one year.
- June 5, 2006         Applicant discussed possible parkland with Parks & Recreation Advisory Board. No action taken by Board.
- June 19, 2006        Manhattan Urban Area Planning Board on votes of 5-2 recommends approval of annexation and rezoning of the Scenic Meadows Addition, from G-1, General Agricultural District, to R, Single-Family Residential District with AO, Airport Overlay District, and to R-1, Single-Family Residential District with AO, Airport Overlay District.

*Attachment No. 3*

- June 19, 2006 Manhattan Urban Area Planning Board conducts a public hearing to consider the Preliminary Plat of the Scenic Meadows Addition and approves Preliminary Plat with conditions, on a vote of 7-0.
- July 11, 2006 City Commission, on a vote of 5-0, approves Resolution No. 071106-A requesting that the Board of Riley County Commissioners make positive findings regarding the island annexation of the proposed Scenic Meadows Addition.
- July 20, 2006 Board of Riley County Commissioners made positive findings regarding the island annexation of the proposed Scenic Meadows Addition.
- August 21, 2006 Manhattan Urban Area Planning Board approves a modified Preliminary Plat of the Scenic Meadows Addition, on a vote of 4-0, with 7 conditions of approval.
- September 19, 2006 City Commission approves first reading of annexation and rezoning to R, Single-Family Residential District with AO, Airport Overlay District, and to R-1, Single-Family Residential District with AO, Airport Overlay District of the Scenic Meadows Addition.
- October 3, 2006 City Commission approves Ordinance Nos. 6576 and 6577 annexing and rezoning the Scenic Meadows Addition to R, Single-Family Residential District with AO, Airport Overlay District, and to R-1, Single-Family Residential District with AO, Airport Overlay District.
- Nov. 6, 2006 Manhattan Urban Area Planning Board approves the Final Plat of Scenic Meadows Addition, based on conformance with the Manhattan Urban Area Subdivision Regulations.
- Nov. 21, 2006 City Commission accepts the easements and rights-of-way, as shown on the Final Plat of Scenic Meadows Addition.
- July 16, 2007 Manhattan Urban Area Planning Board approves the Final Plat of Scenic Meadows Addition, Unit Two, based on conformance with the Manhattan Urban Area Subdivision Regulations.
- August 14, 2007 City Commission accepts the easements and rights-of-way, as shown on the Final Plat of Scenic Meadows Addition, Unit Two.

*Attachment No. 3*

March 15, 2010            Manhattan Urban Area Planning Board approves Variation of Subdivision Layout Standards for cul-de-sac length; and approves the Preliminary and Final Plat of Scenic Meadows Addition, Unit Three, with two conditions of approval, based on conformance with the Manhattan Urban Area Subdivision Regulations.

May 4, 2010             City Commission accepts the easements and rights-of-way, as shown on the Final Plat of Scenic Meadows Addition, Unit Three.

**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 R, Single-Family Residential District, is designed to provide a single-family dwelling zone at a density no greater than one dwelling unit per 10,000 square feet. Minimum lot area is 10,000 square feet for a single-family dwelling. The sites are adequate in area to conform to the requirements of the Zoning Regulations.

The land located in the 1% Annual Chance Flood Plain are subject to the requirements of the Flood Plain Regulations of the Manhattan Zoning Regulations, which require any structures to be elevated on fill with the lowest enclosed floor, including a basement, to be at least one foot above the Base Flood Elevation (BFE).

The AO District “is intended to promote the use and development of land in a manner that is compatible with the continued operation and utility of the Manhattan Municipal Airport so as to protect the public investment in, and benefit provided by the facility to the region. The district also protects the public health, safety, convenience, and general welfare of citizens who utilize the facility or live and work in the vicinity by preventing the creation or establishment of obstructions or incompatible land uses that are hazardous to the airport's operation or the public welfare.”

The site is within the Conical Zone, which in general terms, is an airspace that extends outward and upward in relationship to the Airport and is an approach zone height limitation on the underlying land. Future uses (structures and trees, existing and proposed) in the AO District may be required to obtain an Airport Compatible Use Permit, unless circumstances indicate that the structure or tree has less than 75 vertical feet of height above the ground and does not extend above the height limits prescribed for the Conical Zone.

**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 gain to the public that denial would accomplish. The AO District requires that future uses be reviewed in order to protect airspace. The proposed rezoning is to accommodate the current agricultural use of the site.

**ADEQUACY OF PUBLIC FACILITIES AND SERVICES:** Adequate public services, sanitary sewer, water, and public streets are available to serve the site.

**OTHER APPLICABLE FACTORS:** None

**STAFF COMMENTS:** City Administration recommends approval of the proposed rezoning of Tract A, Scenic Addition, Unit Three from R-1/AO, Single-Family Residential District and Airport Overlay District to R/AO, Single-Family Residential District and Airport Overlay District.

#### **ALTERNATIVES:**

1. Recommend approval of the proposed rezoning Tract A, Scenic Meadows Addition, Unit Three, Generally located east of Scenic Drive and 400 feet south of the intersection of Fossilridge Drive and Scenic Drive from R-1/AO, Single-Family Residential District and Airport Overlay District to R/AO, Single-Family Residential District and Airport Overlay District stating the basis for such recommendation.
2. Recommend denial of the proposed rezoning, stating the specific reasons for denial.
3. Table the proposed rezoning to a specific date, for specifically stated reasons.

#### **POSSIBLE MOTION:**

The Manhattan Urban Area Planning Board recommends approval of the proposed rezoning of Tract A, Scenic Meadows Addition, Unit Three, from R-1/AO, Single-Family Residential District and Airport Overlay District to R/AO, Single-Family Residential District and Airport Overlay District based on the findings in the Staff Report.

**PREPARED BY:** Chad Bunger, AICP, CFM, Planner II

**DATE:** August 27, 2010

**STAFF REPORT**

**APPLICATION TO REZONE PROPERTY TO PLANNED UNIT DEVELOPMENT DISTRICT**

**BACKGROUND**

**FROM:** C-2, Neighborhood Shopping District

**TO:** PUD, Commercial Planned Unit Development District

**OWNER:** Centro Bradley SPE 3 LLC

**ADDRESS:** 1 Fayette Street, Suite 100, Conshohocken, PA 19428

**APPLICANT:** Anne F. McBride, FAICP

**ADDRESS:** 5725 Dragon Way, Suite 220, Cincinnati, OH 45227

**DATE OF PUBLIC NOTICE PUBLICATION:** Monday, July 12, 2010

**DATE OF PUBLIC HEARING: PLANNING BOARD:** Monday, August 2, 2010

**CITY COMMISSION:** Tuesday, August 17, 2010

**LOCATION:** West Loop Shopping Center. Generally located east of Seth Child Road, north of Anderson Avenue and south of Claflin Road.

**AREA:** 21.64 acres

**PROPOSED USES:** Permitted uses as proposed will consist of all of the Permitted and Conditional Uses of the C-2, Neighborhood Shopping District, except schools and public utilities, such as electrical or telephone substations that are not owned or operated by a municipality; where employees are generally not present; and that are in or near the area they are designed to serve. The Conditional Uses that are proposed to be permitted uses include: Bus terminals, not including service and repair of vehicles; car washes; drive-in establishments associated with permitted or other conditional uses; hotels and motels; kennels; and taverns. (*C-2 District regulations attached*). The applicant has also proposed the following additional permitted uses in the application documents:

- Bakery and baked goods store, provided products are sold on premises.
- Candy and ice cream stores.
- Craft and art supply stores.
- Delicatessens, meat, seafood, fruit and vegetable markets
- Dry cleaning stores.
- Framing stores
- Group Day Care Center

- Home improvement stores
- Indoor recreation facilities
- Kennels. Kennels provided that all kennels are completely enclosed within the building and that sound attenuation is provided on common tenant walls.
- Medical service facilities such as lab testing facilities, dialysis clinics, etc.
- Office appliance and supplies
- Outdoor temporary sales of seasonal merchandise as provided in the “C-2” District except as provided for elsewhere in the West Loop PUD with regards to Dillons and Dillons fuel center. The ability to conduct retail promotional sales as provided for in Section 5-201(E) is being included in the “PUD”
- Post office
- Printing services
- Rental stores
- Studios for art, dance, music or gymnastics
- Thrift and consignment shops

Item number 60 “Outdoor temporary sales of seasonal merchandise. . . “ of the proposed permitted uses in the PUD application documents combines a Use Limitation of the C-2 District and permitted temporary promotional activities of West Loop Shopping Center retail merchants found in Section VI, Accessory Uses, Temporary Uses, Home Occupations. City Administration recommends eliminating the proposed permitted use and to allow the open display and sales of goods and merchandise shall be permitted in an area equivalent to not more than five (5) percent of the total floor area of the primary enclosed building. The open display and sales of goods merchandise shall be conducted in front of the building and in a manner so as to remain ADA compliant and shall not restrict pedestrian movement. The use of the parking lot or off-street parking spaces for the open display and sales goods and services shall be prohibited. The service and consumption of food may be allowed outdoors as an accessory activity to a restaurant, tavern, or fraternal or service club in the same manner as the open display of and sales of goods.

Furthermore, City Administration recommends that promotional activities of West Loop Shopping Center retail merchants involving the display of goods and merchandise to be conducted outside of enclosed buildings be permitted for a period of not more than a total of two weeks in any three-month period subject to the following conditions: (1) No portion of the display shall be on publicly owned property unless the applicant shall first have obtained approval for such use from the City, (2) No more than ten (10) percent of the required off-street parking or loading area will be utilized for such display, storage or dispensing.

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Proposed uses such as bus terminals, car washes, future drive-in establishments, hotels and motels and home improvement stores, which are not shown on the proposed site plan and may alter the site plan, traffic flow or parking demands, will require a future PUD amendment.

## **PROPOSED BUILDINGS AND STRUCTURES:**

### *New Construction*

The site is the Westloop Shopping Center. The existing buildings on the east and north sides of the site and of the Commerce Bank building, the Family and Implant Dentistry building and the Pizza Hut building are to remain. The existing buildings on the west side of the site, which total approximately 61,201 square feet of building space, are to be removed and replaced with a 77,100 square foot Dillons' store. The shopping center currently has approximately 210,214 square feet of total building area. Following the redevelopment of the site, the shopping center will have a total building area of approximately 230,009 square feet. The new Dillons store will include groceries and dry good items, as well as an in-store bank, such as Core First Bank & Trust, a Starbucks Coffee, and a pharmacy with drive-thru window. The new building will be approximately 43 feet measured at the peak of the main entrance. The height of the building measured at the top of the parapet is 27 feet, 4 inches. The building will be constructed of split face concrete masonry unit (CMU), standard CMU and with accents of cast stone, EFIS, scored CMU and textured CMU. The existing Dillons store will become leasable tenant space.

The existing vacant automobile service station, a 2,630 square foot building located on the north side of the site along Claflin Road, is to be removed and be replaced with a Dillons' fuel center. The fuel center will include a 176 square foot prefabricated kiosk building and five (5) fuel island with a 50 foot by 105 foot fuel island canopy. The height of the fuel island canopy will be a minimum of nineteen (19) feet. A total of ten (10) fuel pumps will be located in the proposed islands. The kiosk will be approximately eleven (11) feet in height.

The area north of the new Dillon store, which totals approximately 6,900 square feet in area with dimensions of 60 feet by 115 feet, will be dedicated for outdoor seasonal display and sales area from March 1<sup>st</sup> through June 30<sup>th</sup>. The area immediately in front of the new Dillons store will be used throughout the year for display of seasonal items and vending machines (soda, candy and video exchange machines) as well as propane exchange storage. An approximate area five (5) feet around the fuel center kiosk has been designated for outdoor product display areas associated with the fuel center.

*Existing Building Renovations*

The buildings on the east and north sides of the site are proposed to have the front façades renovated. According to the application documents, “While Centro wants to preserve the character of the neighborhood shopping center, they want to give West Loop an updated, more coordinated look that will complement the new Dillons’ building.” Conceptual drawings have been provided to illustrate the façade renovations. The design of the renovations will be done to break up the existing facades and create more architectural elements of interest, to include awnings, raised parapets and other design features. Corporate or national chain architectural features will be permitted and accommodated within the shopping center. The building materials for renovation to the existing facades will be brick, stone, EFIS, wood, shingles, Hardy Plank siding, masonry block and metal framing with architectural panels. The applicant has stated that the color palette for the existing façade renovations will consist of earth tones that will compliment the natural building materials currently on the building. Accent colors will be used to provide interest. No specific architectural plans have been submitted. No maximum height requirement has been provided for the proposed renovations of the existing buildings. The maximum height of the existing buildings shall follow the C-2 District regulations of a maximum height of forty (40) feet.

*Future Expansion*

Two areas are designated for on the site plan reserved for future building expansion areas. An area of 3,849 square feet in area is proposed for future expansion of the existing building north of the existing Dillons store. A 2,500 square foot expansion area is proposed to be added to the existing dental office. The site plan notes that the location of this expansion has not been determined yet. These two (2) areas of building expansion will require a PUD amendment prior to the expansion.

**PROPOSED LOT COVERAGE**

<b><i>USE</i></b>	<b><u>Acres/Square Feet</u></b>	<b><u>Percentage</u></b>
Buildings	5.28 ac / 230,009 sq. ft.	24.4%
Parking and Driving Lanes	13.60 ac / 592,676 sq. ft.	62.9%
Landscape/Open Space	2.75 ac / 119,954 sq. ft.	12.7%

**PROPOSED SIGNS**

The signage for the West Loop Shopping Center is proposed in two separate parts, signs for the proposed Dillons’ store and fuel center and signage for the existing buildings.

Dillons’ store signs are as follows:

<u>Type</u>	<u>Dimension</u>	<u>Lighting</u>
Front (East) Facade: “Core First Bank & Trust” Individual channel letters	76.8 square feet	Internally Illuminated
“Starbucks Coffee” Individual channel letters	50.5 square feet	Internally Illuminated
“Dillons” Individual channel letters	252.5 square feet	Internally Illuminated
“Rx Drive-Thru” Individual channel letters	57.6 square feet	Internally Illuminated
“Dillons Pharmacy” Individual channel letters	164.0 square feet	Internally Illuminated
“Exit” Individual channel letters	3.6 square feet	Internally Illuminated
	<b>Total: 605.0 square feet</b>	
Rear (West) Facade:		
“Enter” Individual channel letters	5.1 square feet	Internally Illuminated
	<b>Total: 5.1 square feet</b>	
Side (North) Facade:		
“Dillons” Individual channel letters	124.8 square feet	Internally Illuminated

**Total Sign Area for Dillons’ Store: 734.9 square feet**

Details of the Dillons’ building signage are attached in the application documents.

Dillons’ Fuel Center: The new fuel center will have the following signage:

<u>Type</u>	<u>Dimension</u>	<u>Lighting</u>
Canopy Signage:		
North (Clafin) Facade:		
Logo: channel sign	13.13 square feet	Internally illuminated
Dillons: individual channel letters	11.11 square feet	Internally illuminated
Pricing: electronic changeable copy	45.5 square feet	Light Emitting Diode
	<b>Total sign area 69.74 square feet</b>	

<u>Type</u>	<u>Dimension</u>	<u>Lighting</u>
South Facade:		
Logo: channel sign	13.13 square feet	Internally illuminated
Dillons: individual channel letters	11.11 square feet	Internally illuminated
Pricing: electronic changeable copy	45.5 square feet	Light Emitting Diode
	<b>Total sign area 69.74 square feet</b>	
West Facade:		
Logo: channel sign	10.00 square feet	Internally illuminated
Right Facade:		
Logo: channel sign	10.00 square feet	Internally illuminated
Kiosk Signage:		
North Facade:		
Logo: channel sign	8.1 square feet	Non-illuminated
South Facade:		
Logo: channel sign	8.1 square feet	Non-illuminated
Pump Dispenser/Per Side with 10 pump/faces:		
“Dillons” & Logo:	2 SF each / 20 SF Total	Non-illuminated
	<b>Total Sign Area for the fuel center: 195.68 square feet</b>	

Details of the Dillons’ fuel center signage are attached in the application documents...

**West Loop Shopping Center pole signs**

The applicant has also proposed to modify the existing shopping center pole sign on Anderson Avenue and construct a similar shopping center pole sign on Claflin Road. Both signs are approximately thirty (30) feet tall. The Anderson Avenue sign is a double sided sign and will have approximately 390 square feet of sign area. The modified sign will prominently list the Dillons store and have space for names of tenants within the shopping center. The modified sign is skirted and located within a landscaped bed. The proposed pole sign on Claflin Road will be double sided and have approximately 390 square feet of sign area. The pole will be skirted similar to the existing sign on Anderson Avenue. The sign will prominently list the Dillons’ store, have LED changeable copy sign space for the fuel center prices and have space for names of tenants within the shopping center. The Preliminary Landscape Plan does not show a landscape bed at the base of the proposed

pole sign. A landscape bed at the base of the new shopping center pole sign shall be proposed with the Final Development plan to provide a consistent appearance with the existing sign. Details of the West Loop Shopping Center poles signs are attached in the application documents.

### **Other Existing and Proposed Building Signs**

The applicant has proposed a separate set of sign regulations for the existing tenant spaces on the east and north side of the development, the Pizza Hut building, Family and Implant Dentistry building, the Commerce Bank building and the Kansas State Bank building. The sign regulations are based on the type of tenant space where the sign is to be located (inline, end cap or stand alone spaces or buildings) and the size of the tenant space. The proposed sign regulations for the existing tenant spaces also take into account the five (5) existing “free standing signs” located on the site. The “free standing signs” are as follows

- The Kansas State Bank pole sign – approximately twenty (20) feet tall with one-hundred (100) square feet of sign area.
- The Pizza Hut pole sign – approximately twenty-four (24) feet tall with 80 square feet of sign area.
- The Commerce Bank ground sign – approximately 10 feet, 6 inches tall with sixty-eight (68) square feet of sign area.
- The Family and Implant Dentistry ground signs – two signs that are approximately eight (8) feet tall with approximately sixty (60) square feet of sign area for each sign.

Details of the proposed signs standards for tenant spaces are described in the West Loop PUD Signage in the application submittal package, pages 12 through 36 (*attached*).

Future modification or alterations to the existing pole signs should include skirting to the pole and the base of the pole sign should be located in a landscape bed. The skirting for the pole sign should include architectural elements and colors that are similar to the associated building.

**PROPOSED LIGHTING:** There are currently five (5) different types of light pole fixtures throughout the site. The applicant is proposing to remove the majority of these light poles and replace them with thirty-nine (39) foot tall light poles with down directional high pressure sodium flat lens shoebox fixtures. The Dillons building will also have wall mounted lighting. The application documents state that “cut-off type luminaries will be used to direct light on site and reduce light spillage.” A site lighting plan sheet has been submitted that shows the distribution of light towards the adjacent properties.

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## **REVIEW CRITERIA FOR PLANNED UNIT DEVELOPMENTS**

**1. LANDSCAPING:** The site is fully developed with established landscape areas and mature trees throughout the site. The proposed redevelopment of the site shows several landscape islands in between parking spaces to be removed with the realignment of the off-street parking lot and central drive. Approximately fifty-three (53) deciduous trees are to be removed with the redevelopment of the site.

The Preliminary Landscape Plan is functional to the nature of the neighborhood shopping center. The proposed plan shows that new landscape islands at the end of most parking aisles will be installed along the east and west sides of the realigned parking lot. These landscape islands will include ground cover that has yet to be determined and deciduous ornamental trees, including Ash, Autumn Purple Cherry, Canada Red Crabapple, Prairifire Crabapple, Snowdrift Pear and Chanticleer trees. Existing, larger landscape beds in the north and southern part of the parking lot are to be redesigned and re-established with ornamental trees, shrubs and turf grasses. Other landscape beds adjacent to the existing buildings are to remain in their current state. The minimum landscape space is 5% for parking and drive areas for a typical C-2 District development. The amount of landscape space that is internal to the off-street parking lot is 58,566 square feet or 11% of the total parking lot area, which exceeds the minimum landscape requirement. One-hundred and five (105) trees would be required; a total of 108 existing and new trees are shown on the Preliminary Landscape Plan.

The minimum distance a parking space can be from a landscaped open space is seventy (70) feet. Because of the proposed realignment of the off-street parking spaces and the removal of the existing landscape islands; approximately fifteen (15) parking spaces in front of the existing Dillons' store and three (3) parking spaces in front of the new Dillons' store exceeds the maximum distance to the nearest landscaped open space. The greatest distance is 110 feet from a parking space to the nearest landscape bed. The applicant has stated "Centro and Dillons have worked diligently to try to comply with the requirement of all spaces being within 70' of landscaping. We have been successful in realigning the access drive and creating landscape islands at the end of each parking row abutting the north/south drive to create a prominent landscape presence. We have also created/maintained a number of very large islands within the parking field and have made an attempt to preserve as many of the existing trees as possible. Unfortunately, to do all of this within the confines of an existing development, not all spaces will be within 70' of landscaping." Considering the amount of landscape space proposed with the Preliminary Landscape Plan and the small number of parking spaces that does not meet this landscape requirement; the proposed condition should not detract from the overall character of the redevelopment.

*Attachment No. 4*

The proposed landscaping areas are to be owned and maintained by the property owner. A note on the Preliminary Landscape Plan states that “all landscaping will be unirrigated.” The existing and proposed landscape should be irrigated with a permanent irrigation system or a detailed landscape maintenance and irrigation plan shall be submitted with the Final Development Plan to describe how the proposed landscape will be established and maintained to ensure plant stocks survival.

**2. SCREENING:** There are currently several trash dumpsters located throughout the development. Five (5) of the dumpsters are located at the rear of the existing western building along Seth Child Road. These dumpsters are to be removed with the construction of the new Dillons’ store and will be replaced by a large trash compactor which will be located in a truck dock. The trash compactor will be behind a four (4) foot tall concrete retaining wall of the truck dock. A four (4) foot tall chain-link fence would be located on top of the wall. The proposed retaining wall and chain-link fence will not provide adequate screening to meet the minimum screening requirement for a trash dumpster. The trash compactor will be approximately fourteen (14) feet below the elevation of Seth Child Road. Considering that the area the trash compactor is to be screened from is the view from Seth Child Road and that the change in grade from the Dillons’ store site to the road way is fourteen (14) feet; the screening of the trash compactor appears to be adequate.

The Pizza Hut building has two (2) dumpsters. These dumpsters will be relocated and screened by a six (6) foot tall wood fence with enforced access gates. The Family and Implant Dentistry has one (1) dumpster which will also be relocated to a six (6) foot tall wooden fence enclosure with reinforced access gates.

There is a dumpster located within a white wooden fence enclosure in the northern section of the development’s parking lot. The Kansas State Bank has a dumpster to the west of the building that is enclosed by a fence. These two (2) screening enclosures will remain unchanged.

There are several dumpsters located at the rear of the eastern buildings that are currently not screened. The applicant has requested that these dumpsters not be screened. They are currently in service areas at the rear of the buildings and not seen by the public. The dumpsters are screened by the steep grades to the north and east and are separated by distance from the Anderson Avenue right of way. In their present location, the trash dumpsters appear to be adequate. However, if the trash dumpsters are relocated, they will be required to be screened by at least six (6) foot tall, sight obscuring screening.

That applicant has proposed to use individual screening units to conceal the rooftop heating and air conditioning units and other roof top utility units, rather than construct a continuous fence or a parapet. The screening units will conceal the equipment from vehicles on Seth Child Road.

**3. DRAINAGE:** The site is fully developed. An eight (8) foot by ten (10) foot reinforced concrete box drainage channel is located underground that runs from north to south in approximately the middle of the site. This drainage channel carries storm water runoff from the Virginia-Nevada Tributary, which is north of the site, in a southerly direction under Anderson Avenue to a detention basin in Garden Way. This basin then drains into Wildcat Creek. The 1% Annual Chance Flood Plain (most commonly referred to as the 100 Year Flood Plain) and the 0.2% Annual Chance Flood Plain (most commonly referred to as the 500 Year Flood Plain) generally follows the underground drainage channel. The FEMA Flood Insurance Study (FIS) and Flood Insurance Rate Map (FIRM) shows a headwater condition along Claflin Road, where the stormwater from the north would back up at the culverts, overtop the roadway and create a wall of water to the south were it would then dissipates across the subject site. The Base Flood Elevations (BFE) shown on the site depicts this condition. To the knowledge of current and former City employees, this condition has not occurred since the FIRM was first adopted in 1984 and updated in 2005.

The majority of the site is unaffected by the location of the flood plains, as it is the location of off-street parking spaces, driving aisles and landscape spaces. The existing Commerce Bank building on the north side of the site is completely in the 1% Annual Chance Flood Plain. It is a "Pre-FIRM" structure, meaning it was built prior to the adoption of Article X, Flood Plain Regulations, the Flood Insurance Study and FIRMS within the City, and is nonconforming to the current Flood Plain Regulations. If the structure were to become damaged beyond 50% of its fair market value, the structure would need to comply with the current Flood Plain Regulations.

The proposed Dillons fuel center is partially located in the 1% Annual Chance Flood Plain. The BFE at this location is 1065 feet. A note on the Grading Plan Sheet states that the fuel center will be flood proofed to 1066, or one (1) foot above the BFE. Non-residential structures are allowed to be flood proofed to the minimum required elevation above the BFE if certified by a professional engineer or licensed architect.

The drainage system is designed in conformance with the adopted Stormwater Management Master Plan. Adequate provisions of stormwater drainage are provided. A Drainage Report was prepared by Pickering Firm, Inc. (*attached*). The City Engineer has reviewed the Report (*memo attached*) without exception. The proposed drainage plan is to maintain the existing stormwater drain inlets that connect to the existing underground drainage box and install new drain inlets where needed with the construction of the new buildings.

#### **4. CIRCULATION:**

##### **Access**

To the south of the site is Anderson Avenue which is a five-lane urban arterial street. The site has four (4) access points onto Anderson Avenue: a full access driveway at the east side of the development to the Dillons' pharmacy drive-thru and service area, a right in/right out driveway in front of the existing Dillons' store, the main southern entrance into the site, which is controlled by a traffic signal, and a full access driveway on the west side of the site between Kansas State Bank and the McDonalds restaurant. No changes or alterations are proposed to the access points along Anderson Avenue.

To the north of the site is Claflin Road, a four-lane collector street. The site currently has four (4) access points onto Claflin Road: the main northern entrance of the site, which is controlled by a traffic signal, two full access driveways into the vacant service station, and a full access driveway into the Pizza Hut site. The proposed site plan removes the two existing access driveways leading into vacant service station. The main entrance and the full access driveway into Pizza is proposed to be unchanged. Access into the fuel center will be from the main entrance into the fuel center and the Pizza Hut driveway.

The Pizza Hut driveway is approximately 130 feet from the westbound stop bar of the intersection of Claflin Road and Seth Child Road. This existing configuration does not meet the minimum distance of 300 feet from a driveway along a collector street and an intersecting arterial street. Rob Ott, the City Engineer, has provided a memo address the concern of the existing driveway and the effects on the traffic on Claflin Road (*attached*). The memo states:

The City understands that closing this driveway could be detrimental to the businesses (Pizza Hut) in the northwestern corner of the development, but that the safety of the public should also be addressed by limiting this to a Right-In/Right-Out access. Allowing this driveway to be one of the main access points for the truck traffic of the development will be a safety issue when exiting trucks try to make the left-turn on to Claflin Rd. to access Seth Childs Rd. The City feels that there are plenty of safer alternative routes that can be taken for trucks departing the development. We understand that the applicant and existing businesses are not in favor of this recommendation. However Public Works Administration is trying to bring this driveway into compliance not only at this location but at other locations on other projects into compliance with Manhattan Area Transportation Strategy Report. This topic will need to be discussed during the planning board meeting and final determination and guidance will be required.

### **Internal Circulation**

The site plan for the proposed PUD eliminates a portion of the existing landscape island to the south of the main Claflin Road entrance to create a driving aisle in front of the new Dillons' store and the associated parking lot. A three-way controlled intersection will be created at the new interior intersection with the installation of stop signs. The existing curvature of the driving aisle from west to east will remain the same as it is today. The realigned parking lot driving aisles will access the driving aisle in front of the new Dillons' store, the main driving aisle down the center of the site and in front of the existing stores. Traffic calming measures, such as roadway striping, signage, stamped concrete, concrete pavers, lane narrowing, or similar measures, are proposed at the pedestrian crosswalks throughout the main driving aisle down the center of the development. These traffic calming measures will be designed to slow traffic down through the development and provide for safer pedestrian crossing between the two (2) sides of the development. These traffic calming measures will be evaluated for their effectiveness and finalized with the Final Development Plan.

### **Pedestrian**

Sidewalks are located on both sides of the Anderson Avenue right-of-way (ROW) and on the north side of the Claflin Road ROW. The applicant has proposed an internal series of sidewalks in front of the buildings and across the parking lot to provide for pedestrian access. A six (6) foot wide crosswalk is proposed from the entrance of the new Dillons' store to the east to provide a direct pedestrian pathway between the two sides of the site. The crosswalk is at the grade of the parking lot and striped. Wheel stops will be installed in the parking spaces along the crosswalk to help ensure that the crosswalk is passable and meets ADA requirements. A pedestrian crosswalk is proposed at the intersection of Claflin Road and Beechwood Terrace to connect the proposed sidewalks within the site to the existing sidewalk along the north side of Claflin Road. The proposed sidewalks will also connect to the existing sidewalks in the Anderson Avenue ROW to the south. A pedestrian crosswalk currently exists at the traffic signal at the main entrance to the site along Anderson Avenue.

### **Bicycle**

Bicycle racks are proposed in front of the new Dillons' store and the existing buildings to the east. The Bicycle Advisory Committee reviewed the proposed development at their monthly meeting on July 28, 2010. No major comments regarding the development were expressed. They did like the location of the bicycle racks near the entrances of the stores and appreciated the addition of the sidewalks and pedestrian crossing throughout the development.

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### **Off-street Parking**

The proposed redevelopment of the West Loop Shopping Center removes the existing 60 degree angled off-street parking spaces throughout most of the interior parking lot and will replace the spaces with 90 degree off-street parking spaces. The existing development has 893 parking spaces. The proposed redevelopment will have 934 parking spaces, which includes the 24 parking spaces that will be used by the seasonal outdoor storage area proposed with the new Dillons' store. The existing and proposed buildings will have a net area of 175,407 square feet. Based on the Parking Regulations, the minimum number of off-street parking spaces would be 964 square feet (5.5 parking spaces per 1,000 square feet – Section 7-103(B)(D)). The proposed parking count is the equivalent 5.32 parking spaces per 1,000 square feet. The applicant has provided the following justification to support reducing the total number of off-street parking spaces:

1. Experience: Centro Properties Group operates hundreds of neighborhood shopping centers across the U.S., the majority of which are anchored by grocery stores. Centro's experience in operating such centers coupled with Dillons' experience as a grocer provides them with the experience to know that the parking ratio of 5.3 will work for this site. Neither Centro nor Dillons would make the investment in the redevelopment of West Loop only to be short on parking.
2. Green: Although standard parking ratios are designed to park the maximum cars on the busiest shopping day of the year, in reality that day never occurs and a sea of asphalt is created for no reason. The redevelopment of West Loop increases the green area from 10% to 12.7% while still providing sufficient parking. Current trends in zoning codes reduce the amount of parking required and establish minimum/maximum parking standards to reduce the amount of impervious surface area on site.
3. Additional Factors: A number of the tenants in West Loop offer the convenience of drive-thru services such as the Dillons' Pharmacy, Commerce Bank/Kansas State Bank teller and ATM drive-thrus. Such services eliminate the need for customers to park and go into the store for their goods/services. As requested by the City, strong pedestrian linkages are provided to the north and south and across the center to encourage pedestrian traffic to the center. Bicycle racks have also been included on site to facilitate those cycling to the center.
4. Best Planning Principles: There are 18 sources of parking standards under the "Shopping Center" category of the publication Parking Standards published by the American Planning Association (PAS #510/511). The parking requirements for a center this size range from a ratio of 3.3 to 5 spaces per 1,000 SF with the average of those sources requiring a ratio of 4 parking spaces per 1,000 SF of floor area.

The proposed amount of off-street parking should not impact the development or affect adjacent properties by not providing enough parking spaces.

**Clafin Road and Beechwood Intersection**

City Administration is aware of existing traffic congestion problems at the intersection of Clafin Road and Beechwood Terrace, including the traffic entering and exiting the West Loop Shopping Center. The Public Works department conducted a more detailed traffic impact study of the intersection. The summary of the traffic study of the intersection is outlined in the memo the City Engineer (*attached*) and states:

- a) Attached are four diagrams with this memorandum:
    - i) Figure No. 1 ~ Contains the existing turning movement counts during the PM peak hour which is the largest hour and is the design hour that should be used for this corridor. Please note that the left turn volumes for west bound Clafin at Beechwood is actually higher than some of the left turning volumes at K-113.
    - ii) Figure No. 2 ~Level of Service and 95<sup>th</sup> Percentile Queue Length with existing conditions and existing volumes.
    - iii) Figure No. 3 ~Level of Service and 95<sup>th</sup> Percentile Queue Length with a modified traffic signal timing plan to split phase the intersection with no new left turn lanes on Clafin Road.
    - iv) Figure No. 4 ~ Level of Service and 95<sup>th</sup> Percentile Queue Length with a new 100 foot storage left turn lane on Clafin Road.
  - b) **Summary** ~ The construction of east and westbound left-turn lanes at the intersection of Clafin Road and Beechwood Terrace would improve the overall intersection queuing length of the existing condition. We know that the new increase traffic will only compound this problem.
- 2) The schedule of the improvement and how funding will be arranged is subject to the further discussion with the City Commission and City Administration.

**5. OPEN SPACE AND COMMON AREA:** The site is a fully development site that is planned for redevelopment. No open space or common areas are proposed. The parking lot and landscape areas associated with the development is comprised of approximately 12.7% of the site and is owned and maintained by the property owner, Centro Bradley SPE 3 LLC.

**6. CHARACTER OF THE NEIGHBORHOOD:** The character of the surrounding neighborhood is a mix of commercial, multiple-family and single-family residential uses. The West Loop Shopping Center was established in approximately 1968 and has been a

part of the character of the neighborhood since that time. To the south of the site is the Anderson Avenue corridor, which is dominated by restaurants, retail, business and professional office and service commercial uses. To the west is the Seth Child Road/K-113 Highway, a limited access arterial highway, and single-family homes. To the north of the site along Claflin Road, a four-lane collector street, are multiple-family units and a dental office. Further to the north are single-family homes. To the east are restaurants, professional and business offices, retail and service commercial uses.

### **MATTERS TO BE CONSIDERED WHEN CHANGING ZONING DISTRICTS**

**1. EXISTING USE:** West Loop Shopping Center, consisting of retail, restaurants, banks with drive thru windows, medical office building, professional and business offices and a grocery store with a drive-thru pharmacy window.

**2. PHYSICAL AND ENVIRONMENTAL CHARACTERISTICS:** The site is fully developed and is generally flat. On the east property line of the site is a steep cliff with a slope of approximately 45% to 50%. The slope is heavily tree lined. The northern edge of the site, along Claflin Road, is cut into the hillside and protected by an existing retaining wall.

The 1% Annual Chance Flood Plain (100-year Flood Plain) and the 0.2% Annual Chance Flood Plain (500-year Flood Plain) is located down the approximate middle of the site. The flood plain represents the flow of stormwater from the Virginia-Nevada Tributary from the north. The stormwater is directed under Claflin Road to an eight (8) foot by ten (10) reinforced concrete box drainage channel that carries the water underground to the south towards a detention basin near Garden Way, which ultimately drains to Wildcat Creek. The FEMA Flood Insurance Study (FIS) and Flood Insurance Rate Map (FIRM) represents a headwater condition along Claflin Road, where the stormwater from the north would back up at the culverts, overtop the roadway can create a wall of water to the south where it dissipates. The Base Flood Elevations shown on the site depict this condition. To the knowledge of current and former City employees, this condition has not occurred since the FIRM was first adopted in 1984 and updated in 2005.

### **3. SURROUNDING LAND USE AND ZONING:**

**(a.) NORTH:** Claflin Road, a four-lane collector street, a dental office, multiple-family units (Beechwood Terrace Apartments, Gaslight Village Apartments, and the Park Place Apartments) and single-family homes and the University Christian Church (Gaslight Addition); C-1, Restricted Business District, R-3, Multiple-Family Residential District and R, Single-Family Residential District.

**(b.) SOUTH:** Anderson Avenue, a five-lane arterial street, highway service commercial uses and multiple-family units (Evergreen Apartments, Garden Grove Apartments and Garden Way Apartments); C-2, Neighborhood Shopping District, C-5, Highway Service Commercial District, R-3, and Garden Grove PUD

**(c.) EAST:** Restaurants, business and professional offices and service commercial uses; C-2.

**(d.) WEST:** Seth Child Road, a four lane, limited access arterial road, single-family homes, business and professional offices, the Plaza West Shopping Center, which includes a grocery store, retail stores and restaurants, and highway service commercial uses; R District, C-2 District, C-5 District, Frakes Addition Commercial PUD and Plaza West Shopping Center Commercial PUD.

**4. CHARACTER OF THE NEIGHBORHOOD:** See above

**SUITABILITY OF SITE FOR USES UNDER CURRENT ZONING:** The subject site is currently zoned C-2, Neighborhood Shopping District. The site is suitable for the permitted and conditional uses of the C-2 District as a neighborhood shopping center. Section 4-202(E)(6) limits the size of any separate business establishment to no more than 35,000 square feet of floor space. The existing Dillons' store building was granted a Variance in August 11, 1999 to increase the size of the building to from the maximum 35,000 square feet of floor space to 46,558 square feet of floor space. The applicant has chosen to apply for the rezoning from C-2 District to the Commercial PUD District, primarily, so that the new Dillons building can be 77,100 square feet in floor area. Other site improvements and locations of proposed signs necessitate the need for the rezoning as well.

The existing Dillon's store received a Variance on August 11, 1999 to allow the increase the size of a single business from 35,000 square feet of floor space to 46,558 square feet of floor space and a Conditional Use Permit for the pharmacy drive-thru. A number of the existing building and pole have received Variances to increase the gross surface area of the sign (Kansas State Bank pole sign, March 15, 1974) or allow more than one (1) sign per building façade (Dillons, August 11, 1999 and January 9, 2002 and Little Apple Brewery, March 10, 1999).

**COMPATIBILITY OF PROPOSED DISTRICT WITH NEARBY PROPERTIES AND EXTENT TO WHICH IT MAY HAVE DETRIMENTAL AFFECTS:**

The site is a fully developed neighborhood shopping center along the Anderson Avenue commercial corridor, which has existed since 1968. The proposed PUD is to allow the redevelopment of the shopping center to include a 77,100 square foot Dillons store and to renovate existing buildings along the north and east sides of the site and add uses other than those listed in the C-2 District. The proposed redevelopment and the uses of the site will be compatible with nearby properties.

A neighborhood meeting was conducted on June 1, 2010. The participants of the meeting raised issues about the existing tenant visibility, the relocation of tenants being displaced by the construction of the new Dillons' store, operation of existing business during the construction period, if any off-site improvements will be done, the architectural design of the rear of the new Dillons' store and if there will be an increase in traffic to the area. The applicant has provided a written summary of their responses to these concerns (*attached*)

As stated in the PUD Criteria Number 4, CIRCULATION, the City Engineer has recommended that the full access driveway leading to Pizza Hut be converted to a right-in/right-out access. This is due to traffic safety concerns of truck traffic making left turns out of the shopping center and into the Claflin Road. City Administration is aware of the existing traffic congestion conditions at the intersection of Claflin Road and Beechwood Terrace. The scheduling and funding of the needed left turn lanes at the Claflin Road and Beechwood Terrace will be further discussed by the City Commission and City Administration.

**5. CONFORMANCE WITH COMPREHENSIVE PLAN:** The site is designated CC, Community Commercial, as shown on the Northwest Planning Area Future Land Use map of the Manhattan Urban Area Comprehensive Plan.

The proposed PUD is to redevelop the existing West Loop Shopping Center. Applicable policies (*shown in italics*) of the Community Commercial (CC) are:

***COMMUNITY COMMERCIAL (CC)***

***CC 1: Characteristics***

*Community Commercial Centers provide a mix of retail and commercial services in a concentrated and unified setting that serves the local community and may also provide a limited draw for the surrounding region. These centers are typically anchored by a larger national chain, between 120,000 and 250,000 square feet, which may provide sales of a variety of general merchandise, grocery, apparel, appliances, hardware, lumber, and other household goods. Centers may also be anchored by smaller uses, such as a grocery*

*store, and may include a variety of smaller, complementary uses, such as restaurants, specialty stores (such as books, furniture, computers, audio, office supplies, or clothing stores), professional offices and health services. The concentrated, unified design of a community commercial center allows it to meet a variety of community needs in a “one-stop shop” setting, minimizing the need for multiple vehicle trips to various commercial areas around the community. Although some single use highway-oriented commercial activities will continue to occur in some areas, this pattern of development is generally not encouraged.*

**CC 2: Location**

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

**CC 3: Size**

*Typically require a site of between 10 and 30 acres.*

**CC 4: Unified Site Design**

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

**CC 5: Architectural Character**

*Community Commercial Centers shall be required to meet a basic level of architectural detailing, compatibility of scale with surrounding areas, pedestrian and bicycle access, and mitigation of negative visual impacts such as large building walls, parking areas, and service and loading areas. While these requirements apply to all community commercial development, they are particularly important to consider for larger footprint retail buildings, or “big box” stores. A basic level of architectural detailing shall include, but not be limited to, the following:*

- *Façade and exterior wall plane projections or recesses;*
- *Arcades, display windows, entry areas, awnings, or other features along facades facing public streets;*
- *Building facades with a variety of detail features (materials, colors, and patterns);*  
*and*

- *High quality building materials.*

**CC 6: Organization of Uses**

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

**CC 7: Parking Design and Layout**

*Uninterrupted expanses of parking should be avoided. Parking areas should be broken into smaller blocks divided by landscaping and pedestrian walkways. Parking areas should be distributed between the front and sides of buildings, or front and rear, rather than solely in front of buildings to the extent possible.*

**CC 8: Circulation and Access**

*Clear, direct pedestrian connections should be provided through parking areas to building entrances and to surrounding neighborhoods or streets. Integrate main entrances or driveways with the surrounding street network to provide clear connections between uses for vehicles, pedestrians, and bicycles.*

In addition, the proposed PUD promotes pedestrian connections within and to the street system consistent with Chapter 11: Community Design.

**CD 5: Promote Accessible, Pedestrian-Friendly Community Design**

*Future residential and commercial development should be planned and designed to ensure that sites and land uses are linked by all modes of travel – autos, pedestrians, and bicycles. Within each site, development shall be planned and designed to be pedestrian-friendly with full accommodation for safe, comfortable, and convenient walking on a continuous, well-connected system of sidewalks, walkways and street crossings.*

The West Loop Shopping Center is an established Community Commercial Center. The proposed redevelopment of the shopping center as Planned Unit Development is in conformance with the Manhattan Urban Area Comprehensive Plan.

**8. ZONING HISTORY AND LENGTH OF TIME VACANT AS ZONED:**

The site was annexed into the City of Manhattan on August 7, 1962 (Ord. No. 2269) and zoned CR, Local Business District. From 1964 - 1969, the site was zoned C, Local Business District. The property was developed in approximately 1968. From 1969 to the present, the site has been zoned C-2, Neighborhood Shopping District.

**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 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 is consistent with the intent and purposes of the Zoning Regulations and the intent of the PUD Regulations.

**13. RELATIVE GAIN TO THE PUBLIC HEALTH, SAFETY AND WELFARE THAT DENIAL OF THE REQUEST WOULD ACCOMPLISH, COMPARED WITH THE HARDSHIP IMPOSED UPON THE INDIVIDUAL OWNER:**

There appears to be no gain to the public that denial would accomplish as no adverse impacts are expected as a result of the rezoning. The proposed rezoning is based on a desire to redevelop the Westloop Shopping Center to allow for a new, 77,100 square foot Dillons store, fuel station as well as update the existing buildings on the east side of the property. It may be a hardship on the owner if the rezoning is denied.

**14. ADEQUACY OF PUBLIC FACILITIES AND SERVICES:** Adequate public sanitary sewer and water are available to serve the site. There are a number of water lines and fire hydrants throughout the development that are owned and maintained by the applicant/property owner. The City will not accept the maintenance of these private utilities, but does have the right to connect fire suppression apparatus to the private hydrants in the case of a fire emergency.

Sidewalks currently exist on the north and south side of Anderson Avenue and the north side of Claflin Road. The proposed development provides for adequate internal pedestrian access to these existing sidewalks in the public right-of-way.

**12. OTHER APPLICABLE FACTORS:** None.

**13. STAFF COMMENTS AND RECOMMENDATION:** City Administration recommends approval of the proposed rezoning of the West Loop Shopping Center from C-2, Neighborhood Shopping District, to PUD, Commercial Shopping District, with the following conditions:

1. Permitted uses shall include all of the permitted uses in the C-2, Neighborhood Shopping District, and shall also include the following as permitted uses:
  - Bakery and baked goods store, provided products are sold on premises.
  - Bus terminals, not including service and repair of vehicles.
  - Candy and ice cream stores.
  - Car washes.
  - Craft and art supply stores.
  - Delicatessens, meat, seafood, fruit and vegetable markets
  - Drive-in establishments associated with permitted uses.
  - Dry cleaning stores.
  - Framing stores
  - Home improvement stores
  - Hotels and motels.
  - Indoor recreation facilities
  - Kennels. Kennels provided that all kennels are completely enclosed within the building and that sound attenuation is provided on common tenant walls.
  - Medical service facilities such as lab testing facilities, dialysis clinics, etc.
  - Office appliance and supplies
  - Post office
  - Printing services
  - Rental stores
  - Studios for art, dance, music or gymnastics
  - Taverns.
  - Thrift and consignment shops
2. Bus terminals, car washes, future drive-in establishments, hotels and motels, and home improvement stores, which are not shown on the Preliminary Development Plan shall require a future PUD amendments.
3. The outdoor seasonal storage and sales area in the parking lot to the north of the new Dillons' store shall be limited to the areas delineated on the site plan and from March 1<sup>st</sup> to June 30<sup>th</sup> of each year.

*Attachment No. 4*

4. The open display and sales of goods and merchandise shall be permitted in an area equivalent to not more than five (5) percent of the total floor area of the primary enclosed building. The open display and sales of goods and merchandise shall be conducted in front of the building and in a manner so as to remain ADA compliant and shall not restrict pedestrian movement. The use of the parking lot or off-street parking spaces for the open display of goods and merchandise shall be prohibited.
5. Service and consumption of food may be allowed outdoors as an accessory activity to a restaurant, tavern, or fraternal or service club in the same manner as the open display of and sales of goods.
6. Promotional activities of West Loop Shopping Center retail merchants involving the display of goods and merchandise shall be permitted and to be conducted outside of enclosed buildings for a period of not more than a total of two weeks in any three-month period subject to the following conditions: (1) No portion of the display shall be on publicly owned property unless the applicant shall first have obtained approval for such use from the City, (2) No more than ten (10) percent of the required off-street parking or loading area will be utilized for such display, storage or dispensing.
7. A landscape maintenance and irrigation plan shall be provided with the Final Development Plan.
8. Landscaping shall be provided pursuant to a Landscaping Performance Agreement between the City and the owner, which shall be entered into prior to issuance of a building permit.
9. All landscaping shall be maintained in good condition.
10. Light poles shall be provided as described in the application documents and shall be full cutoff design. Building lighting shall be provided as proposed and shall not cast direct light onto public or private streets or adjacent property.
11. A minimum of 934 off-street parking spaces shall be provided as proposed.
12. Signage shall be permitted as proposed in the application documents and as shown on the exterior elevation and signage plans.
13. The proposed West Loop Shopping Center entrance sign on Claflin Road shall be constructed as proposed and located in a landscape bed.
14. Future pole signs shall be located a landscape beds and shall be skirted with architectural elements and colors that are similar to the associated building.
15. Exempt signage described in Article VI, Section 6-104 (A)(1),(2),(4),(5), and (7); and Section 6-104 (B)(1), (2),and (5) of the Manhattan Zoning Regulations shall be permitted.
16. The westernmost access drive on Claflin Road adjacent to Pizza Hut, shall be converted to a Right-In/Right-Out access drive.

**ALTERNATIVES:**

1. Recommend approval of the proposed rezoning of the West Loop Neighborhood Shopping Center PUD from C-2, Neighborhood Shopping District, to PUD, Commercial Planned Unit Development District, stating the basis for such recommendation, with the conditions listed in the Staff Report.
2. Recommend approval of the proposed rezoning of the West Loop Neighborhood Shopping Center PUD from C-2, Neighborhood Shopping District, to PUD, Commercial Planned Unit Development District, and modify the conditions, and any other portions of the proposed PUD, to meet the needs of the community as perceived by the Manhattan Urban Area Planning Board, stating the basis for such recommendation, and indicating the conditions of approval.
3. Recommend denial of the proposed rezoning, stating the specific reasons for denial.
4. Table the proposed rezoning to a specific date, for specifically stated reasons.

**POSSIBLE MOTION:**

The Manhattan Urban Area Planning Board recommends approval of the proposed rezoning of the West Loop Neighborhood Shopping Center PUD from C-2, Neighborhood Shopping District, to PUD, Commercial Planned Unit Development District, based on the findings in the staff report, with the sixteen (16) conditions recommended by City Administration.

**PREPARED BY:** Chad Bunger, AICP, CFM, Planner II

**DATE:** July 29, 2010

## STAFF REPORT

**AN AMENDMENT OF ORDINANCE NO. 6682 AND THE APPROVED FINAL DEVELOPMENT PLAN OF LOT 1, MANHATTAN MARKETPLACE SHOPS, UNIT ONE; AND, AN AMENDMENT OF ORDINANCE NO. 6544 AND THE APPROVED PRELIMINARY DEVELOPMENT PLAN OF LOT 14, MANHATTAN MARKETPLACE UNIT TWO. THE AMENDMENTS ARE PROPOSED AS A FINAL DEVELOPMENT PLAN. A CONCURRENT FINAL PLAT IS ALSO PROPOSED (SEE SEPARATE STAFF MEMORANDUM REGARDING FINAL PLAT.)**

## BACKGROUND

**APPLICANT/OWNER:** Dial-Manhattan LLC. Richard Kiolbasa, Manager.

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

**LOCATION:** Generally north of Osage Street, east of N. 4<sup>th</sup> Street, west of N. 3<sup>rd</sup> Place, and south of Bed, bath & Beyond.

**AREA:** Total Amendment site: Proposed Manhattan Marketplace Shops, Unit Three, Planned Unit Development, a 2.66-acre tract of land consisting of proposed Lot 1, for a Dick's Sporting Goods (1.86-acres), proposed Lot 2, for a 16-unit multiple-family apartment building (0.29-acres) and proposed Lot 3, for commercial space, (0.50-acres).

**DATE OF PUBLIC NOTICE PUBLICATION:** Monday, September 27, 2010.

**DATE OF PUBLIC HEARING: PLANNING BOARD:** Monday, October 18, 2010.

**CITY COMMISSION:** Tuesday, November 3, 2010.

## EXISTING PUDS:

### Ordinances

Manhattan Marketplace, Unit Two, a Commercial Planned Unit Development and Ordinance No. 6544, dated June 6, 2006 (*attached*), and Ordinance No. 6682, dated January 15, 2008. Existing conditions within the amendment site are shown on Sheet C2. Approved Plans are shown on Sheet C6.

### **Permitted Uses**

The permitted uses in the PUD include all of 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.

Proposed Lot 1, Dicks Sporting Goods (proposed as Building K), is currently final platted as existing Lot 1, Manhattan Marketplace Shops, Unit One. The Final Development Plan was approved January 24, 2008 for Buildings K, J, and M (attachments).

Proposed Building K's height to the roofline is 27-feet and 43-feet to the entrance structure. Building materials are split face block and brick. Floor area is 45,000 square feet. Construction Phasing is Fall 2010 thru Fall 2011.

Proposed Lot 2, a two-story 16-dwelling unit apartment building with six, two-bedroom units, and ten, one-bedroom units, 22-bedrooms total, (proposed as Building Q), is Final Platted as existing Lot 9, Manhattan Marketplace Shops, Unit One, and described as Lot 14, in the approved Preliminary Development Plan, Manhattan Marketplace, Unit Two PUD. This portion of the amendment has not been approved by Final Development Plan, to date. Approved Building Q (attachment) on Lot 14 is 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.

Proposed Building Q's height is 22-feet. Building materials are brick, lap siding, and limestone. Floor area is 6,743 square feet per floor. Note: the building is consistent with the architectural character and materials of Strasser Landing apartment to the immediate north along the east side of N. 4<sup>th</sup> Street. Proposed plans refer to the proposed apartment building will be part of Strasser Landing. Construction Phasing is Spring 2011 thru Summer 2011.

Proposed Lot 3, commercial space (proposed as Building J), is currently platted as existing Lot 1, Manhattan Marketplace, Shops, Unit One. The Final Development Plan was approved January 24, 2008, for a part of Building M.

Proposed Building J's height is 30-feet. Building materials are brick, textured masonry, and limestone. Floor area is 4,800 square feet. Construction Phasing is Fall 2010 thru Fall 2011.

## **PROPOSED MODIFICATIONS AND DESIGN GUIDELINES:**

### **Substantial Modifications and Design Guidelines for Downtown Redevelopment**

Whenever there are substantial modifications to an approved Preliminary Development Plan and Final Development Plan the Manhattan Zoning Regulations require an Amendment of the PUD (attachment).

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 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.

### **Proposed Lot 1:**

Modifications: The proposed wall signs are greater in area and number than would be allowed under the C-4 District requirements described below under Proposed Signs. The proposed floor area increase of Dick's Sporting goods store of Building K (45,000 square feet) and Building J (4,800 square feet), or 49,800 total square feet of floor area, is a 32 % increase, a substantial modification of approved floor area compared to the previously approved 33,704-square feet of floor for Buildings K, J and M. However, this percent increase is offset by the reduction of 11,000 square feet of first floor commercial space in Building Q, resulting in a net commercial floor area change of 13%, a marginal increase over the maximum 10% set out in the zoning regulations.

*Attachment No. 5*

Building K is proposed to increase in depth from east to west from 166-feet to 241-feet, a 75-foot increase, and increase in width from north to south from 107.5-feet to 200-feet, both of which are substantial changes to the approved footprint of Building K. The increase in Building K's width to 200-feet, combined with proposed Building J's 40-foot of width, should be balanced against the approved north to south width of the approved 243-feet of frontage width for Buildings, K, J and M.

Dick's has requested outdoor seasonal sidewalk sales for a period of two weeks for each of the four seasons to be located on the east side of the building's entrance. The proposed display area shown on the site plan, Sheet C1, will block the sidewalk. It is too generalized to insure pedestrian access. Seasonal sales should be prohibited unless a location is specified that maintains pedestrian access. Area under the canopy to the south of the front door is an option. ADA, Building and Fire Code requirements should be met, as well as pedestrian access.

Sign modifications are described below under Proposed Signs.

Design Guidelines: Large format retail buildings, comparable to Dick's Sporting Goods are set out in the Design Guidelines. Design Guideline issues are described in a letter from Patrick Schaub, AIA, dated October 13, 2010. The three items noted may be considered as Exceptions to the Guidelines.

Based on the letter from Patrick Schaub, AIA, dated October 13, 2010:

Under Development Intent, it appears the trees are simply not to scale. The requirement to provide trees, however, is met.

Under Pedestrian Environment, the sidewalk width at the northeast corner of the entrance pillar is six feet eight inches, approximately two feet less than the minimum ten foot width. In general, the spacing is adequate and with the open space under the entrance canopy, adequate pedestrian access is provided. Sidewalk under a canopy was approved with the Hy-Vee pharmacy canopy. In general, the intent is met.

The Guidelines do not specify the specific ground cover material, for example mulch versus rock. The percent of ground cover is not supposed to exceed 25%. Primarily it is an aesthetic issue. The applicant indicates the ground cover will convert from mulch to rock for a uniform appearance throughout the PUD. The Guideline is met.

Under Building Facades, (Note: A typo in the letter indicates Section 7. Section 4, page 4-3, Building Facades is the correct part), a steel cap is proposed versus a decorative cornice or ornamental cap. As a comparable, Hy Vee was approved with a partial metal cap.

Cornices were mixed in along the top edge of the roofline with the metal cap. The applicant's architect indicates the proposed top edge is the one they want to use. The Guideline is not met. A cornice or ornamental cap should be provided along all street facades on Building K, and shall be provided with the building permit plans and accepted by the City. Street facades include 3<sup>rd</sup> Place, Osage Street, and Laramie Place.

**Proposed Lot 2:**

Modification: Delete approved Building Q, consisting of a three story structure with 11,000-square feet of first floor commercial space, and a total of 22-residential units, eleven units per floor, on floors two and three. The proposed Building Q is a two story 16-unit residential apartment building described above.

Design Guidelines: Proposed Building Q conforms to the Design Guidelines.

**Proposed Lot 3:**

Modifications: A reduction of Building J's floor area from 7,840-square feet to 4,800-square feet and the deletion of Building M. The proposed sign area on Building J, increases from 95-square feet to 132-square feet in area, or a 30% increase in sign area.

Design Guidelines: Proposed Building J conforms to the Design Guidelines.

**PROPOSED SIGNS**

Wall signs are internally lit and well scaled to the building facades, except as noted above under the description of the substantial modifications.

Signs generally follow the C-4, Central Business District sign requirements; however, the wall sign on Building K (Dicks Sporting Goods) exceeds the maximum 212-square feet in area which would be allowed in the C-4 District. The proposed wall sign along 3<sup>rd</sup> Place is 373 square feet in area. There are four proposed signs on Building K along the Osage Street frontage. Three signs are referred to as billboard graphics on Dick's sign sheets, each 193-square feet per sign area, and are intended to be seasonal with no advertising. Total sign area for the three signs is 579-square feet in total surface area. The written application documents indicate the signs will contain no advertising and are photos that will change seasonally.

The internally illuminated Dick's box sign on Osage Street is 162-square feet in area and meets the requirements of the C-4 District. Total sign area on the south wall is 741 square feet.

The sign on Building J is 132-square feet in area and 95-square feet of sign area would be allowed under C-4 District sign requirements. Approved Building J's sign is 93-square feet in area consistent with the C-4 District. The proposed sign should be reduced to 93-square feet in area.

**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 fixtures must be full cut-off and downcast.

## **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 proposed amendments are generally consistent with the intent and purpose of approved Final Development Plan and approved Preliminary Development Plan. The retail nature of the approved Final Development Plan is maintained as well as the residential character of N. 4<sup>th</sup> Street. Retail parking demand will now shift to 3<sup>rd</sup> Place from N. 4<sup>th</sup> Street, and the parking lot serving the retail area east of 3<sup>rd</sup> Place, rather than competing with residential uses along N. 4<sup>th</sup> Street. Approval of the proposed amendments will ensure the efficient development and preservation of the entire PUD.

The general intent of the PUD is to provide for a pedestrian oriented mixed-use retail and residential environment as an extension of the Downtown. The pedestrian environment is a key element of the Design Guidelines. Proposed architectural and site modifications meet, or in general meet, the Design Guidelines except as noted above.

**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 amendments are necessary due to the modifications required to accommodate the larger proposed Dick's Sporting Goods store because of the increased depth of the store from east to west, deletion of buildings, changes to parking and signage. The increased depth and realignment of the loading dock area for Dick's Sporting Goods required coordination with Bed, Bath & Beyond to insure access to the Bed, Bath & Beyond's loading area. Off-street parking to serve proposed Building Q was reduced in number and the commercial component of approved Building Q was deleted to accommodate the large retail format building.

Office Max was a proposed tenant in Building K and withdrew from the project. The proposed Dick's Sporting Goods store is in response to external retail market conditions and will insure a viable development.

**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 Amendments 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. Substantial public investment has been made in public improvements in association with the PUD. Proposed modifications to the approved PUD are generally minimal and maintain the mixed-use retail and residential nature of the overall development. Streets and easements are otherwise designed to accommodate the downtown redevelopment project.

The proposed amendments will not be granted as a special benefit to any one person. The proposed modifications include a large format retail building, Dick's Sporting Goods, which is 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 are in conformance and meet the requirements of the Design Guidelines. Landscaping and underground irrigation will be maintained by the owner.

**2. SCREENING:** Trash dumpsters are proposed to be screened by masonry enclosures with solid doors. Roof equipment will be screened with parapet walls on the Dick's Sport Goods building and Building J. The apartment equipment will be screened with

**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 within the PUD and city streets. Sidewalks exist or will be provided throughout the development. Sidewalk crossings of most streets will be brick paved to emphasize pedestrian crossings.

Traffic. 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.

Off-Street Parking. The Manhattan Zoning Regulations do not require off-street parking for any use in the C-4 Central Business District. The Manhattan Marketplace PUD does not use any specific parking ratio; rather the off-street parking is maximized to the greatest extent possible. On-street parking along N. 4<sup>th</sup> Street and along Osage Street contributes to meeting a maximum number of parking spaces much like the C-4 District.

In addition, public parking along the east side of N. 4<sup>th</sup> Street from Moro Street to Osage Street and the north side of Moro Street from N. 4<sup>th</sup> Street to 3<sup>rd</sup> Place is in a "White Zone", which restricts on street parking from 5 p.m. to 8 a.m. unless a valid and current "White Zone" permit is displayed. Permits are available to all tenants and property owners along N. 4<sup>th</sup> Street. The developer of the proposed apartment building intends to request the White Zone be extended from Osage Street to Leavenworth Street for 17 parking spaces to insure parking is available for residential occupants from 5p.m. to 8 a.m.

Within the area of the Amendment, a total of 95 off-street and on street parking spaces are generally associated with Lot 1, 2 and Lot 3, which are located along and east of 3<sup>rd</sup> Place, behind Building J, along the north side of Osage Street, to the east and north of Building Q, and along the east side of N. 4<sup>th</sup> Street. Commercial parking is generally to the east of Buildings K and J and on Osage Street, with residential parking to the east and north of Building Q and on N. 4<sup>th</sup> Street.

The applicant notes in its attached written documents that it has a cross parking agreement over the entire shopping center and parking may occur on any lot. The applicant also notes in its attached written documents that it has used a ratio of five parking spaces per 1,000 square feet of floor area, as a general rule, which is currently met (approximately 244,100 square feet of floor area and 1231 off-street parking spaces.)

**5. OPEN SPACE/LANDSCAPED AND COMMON AREA:** Approximately 13.7% 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 residential/retail corridor, and bounded on the east by Tuttle Creek Boulevard, on the west by N. 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:**

Approved Lot 14, Manhattan Marketplace Unit Two, a Commercial PUD is subject to Ordinance No. 6544 approved on June 6, 2006. The site is vacant and has been graded and prepared for development. A three story, first floor commercial, second and third floor residential, building was proposed with the approved PUD. Three on street parking spaces are located in Osage Street and 17 off-street parking spaces are constructed in between the proposed commercial and residential buildings. Ten on street parking spaces exist in N. 4<sup>th</sup> Street. The three Osage Street and 17 off-street spaces will be deleted and replaced as described above.

Approved Lot 1, Manhattan Marketplace Shops Addition, Unit One, Commercial PUD, is undeveloped, but for a free standing cinder block wall, and approved for three commercial spaces. Fifteen off-street parking spaces are constructed along 3<sup>rd</sup> Place and 12 on street parking spaces in Osage Street abutting the lot, with the balance of off-street parking to the east of 3<sup>rd</sup> Place.

**2. PHYSICAL AND ENVIRONMENTAL CHARACTERISTICS:** Generally flat. Existing structures have been demolished and the site has been graded and is vacant except for freestanding block wall. 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:** Bed, Bath & Beyond, multiple-family buildings, retail; PUD

**(b.) SOUTH:** Osage Street, undeveloped Manhattan Marketplace PUD, Manhattan Town Center; PUD and C-4 District.

**(c.) EAST:** 3<sup>rd</sup> Place, off-street parking commercial/retail uses; PUD.

**(d.) WEST:** N. 4<sup>th</sup> Street, single-family, two-family, multiple-family residential uses, community facilities (Senior Center), Damon Runyon House (professional office); R-M, Four Family Residential District, 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. 4<sup>th</sup> 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.

To the west is a residential neighborhood. N. 4<sup>th</sup> Street was improved to a three lane collector, two thru-lanes and a center turn lane, which adequately handle traffic associated with the PUD. Minimal impact on the street system is expected as a result of amendments.

The amendments are within the Environs of the Damon Runyon House, which is on the northwest corner of N. 4<sup>th</sup> Street and Osage Street. The Manhattan Historic Resources Board reviewed the project on September 27, 2010 and found that it meets the Standards and Guidelines for Evaluating the Effects of Projects Environs and (attachment). The State Historic Preservation Officer reviewed the project and determined the proposed project will not encroach upon, damage or destroy any listed historic property or its environs (attachment).

**7. CONFORMANCE WITH COMPREHENSIVE PLAN:** The Manhattan Urban Area Comprehensive Plan shows the site as Central Core District (CCD), which is a special purpose designation for the Downtown Core. The amendment site is also designated as a primary redevelopment area for expansion of the Central Business District, in Downtown Tomorrow – A Redevelopment Plan for Downtown Manhattan, Kansas, adopted in May 2000. The proposed amendment conforms to the Comprehensive Plan.

**8. ZONING HISTORY AND LENGTH OF TIME VACANT AS ZONED:** The amendment site is vacant as demolition and clearing have occurred since rezoning to PUD. The zoning history is comprehensive for the entire Manhattan Marketplace development.

*Attachment No. 5*

- December 15, 2003 Manhattan Urban Area Planning Board recommended approval of the rezoning of the former Steel & Pipe site from I-3, Light Industrial District and C-5, Highway Service Commercial District, to C-4, Central Business District.
- January 6, 2004 City Commission approved first reading of an ordinance rezoning the Steel & Pipe site to C-4, Central Business District.
- January 20, 2004 City Commission approved Ordinance No. 6387 rezoning the Steel & Pipe site to C-4, Central Business District.
- December 19, 2005 Manhattan Urban Area Planning Board recommends approval of the rezoning of Manhattan Marketplace from C-4, Central Business District and C-5, Highway Service Commercial District, to PUD, Planned Unit Development District.
- January 3, 2006 City Commission approves first reading of an ordinance rezoning Manhattan Marketplace from C-4, Central Business District and C-5, Highway Service Commercial District, to PUD, Planned Unit Development District.
- January 17, 2006 City Commission approves Ordinance No. 6520 rezoning Manhattan Marketplace from C-4, Central Business District and C-5, Highway Service Commercial District, to PUD, Planned Unit Development District.
- February 23, 2006 Manhattan Urban Area Planning Board approves Final Development Plan for Phases 1 and 2, Lot 1 (Best Buy), and the Final Plat, of Manhattan Marketplace PUD.
- March 7, 2006 City Commission accepts easements and rights-of-way of Manhattan Marketplace Addition.
- May 1, 2006 Manhattan Urban Area Planning Board, on a vote of 5-0, recommends approval of the rezoning of Manhattan Marketplace Addition, Unit Two from R-2, Two-Family Residential District; R-3, Multiple-Family Residential District; C-2, Neighborhood Shopping District; C-4, Central Business District; C-5, Highway Service Commercial District; I-3, Light Industrial District; and, PUD, Commercial Planned Unit Development District, to PUD, Commercial Planned Unit Development District.

*Attachment No. 5*

- May 15, 2006 Applicant submits revised Preliminary Development Plan replacing the hotel in Building P with residences.
- 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.
- July 17, 2006 Manhattan Urban Area Planning Board approves Final Development Plan for Phase 3, Lot 2 (McAlister's Deli) and the Final Plat, of Manhattan Marketplace Addition, Unit 2.
- January 12, 2007 Manhattan Urban Area Planning Board approves a replat of Lot 4 and 5, Manhattan Marketplace Addition, creating Lot 1 and Lot 2 of the Final Plat of Manhattan Marketplace Addition, Unit 2, and approves the Final Development Plan for Phase 3, Lot 1 and 2 (4,500 square foot building and off-street parking lot).
- February 5, 2007 Manhattan Urban Area Planning Board approves Final Development Plan for Phase 3, Lot 2 (McAlister's Deli) and the Final Plat, of Manhattan Marketplace Addition, Unit 2.
- February 6, 2007 City Commission accepts easements and rights-of-way of Manhattan Marketplace Addition, Unit 2.

*Attachment No. 5*

- October 15, 2007 Manhattan Urban Area Planning Board conducts a public hearing to consider an Amendment of the PUD. The Planning Board recommends denial on a vote of 7-0.
- November 2, 2007 Dial Realty submits new application to amend the Preliminary Development Plan of Manhattan Marketplace, Unit Two.
- December 3, 2007 Manhattan Urban Area Planning Board conducts a public hearing to consider an amendment of Manhattan Marketplace, Unit Two.. The Planning Board recommends denial on a vote of 4-2.
- December 18, 2007 City Commission considered first reading of an ordinance amending the Manhattan Marketplace, Unit Two, and returned to Planning Board for reconsideration.
- January 7, 2008 Manhattan Urban Area Planning Board reconsiders amending Manhattan Marketplace, Unit Two and on a vote of 3-3, took no action.
- January 8, 2008 City Commission approves first reading of an ordinance amending Manhattan Marketplace, Unit Two with five conditions of approval.
- January 15, 2008 City Commission approves Ordinance No. 6682 amending the Manhattan Marketplace, Unit Two and renaming the PUD to Manhattan Marketplace Shops PUD.
- January 24, 2008 Manhattan Urban Area Planning Board approves the Final Plat of Manhattan Marketplace Shops, Unit One, Planned Unit Development.
- February 5, 2008 City Commission accepts easements and rights-of-way of Manhattan Marketplace Shops, Unit One, Planned Unit Development.
- July 27, 2009 Manhattan Urban Area Planning Board approved the Final Development Plan of proposed Lot 1 and Lot 2, Manhattan Marketplace, Unit Two, Planned Unit Development (PUD), formerly described as Lot 9 in the Preliminary PUD, and approved the Final Plat of proposed Lot 1 and Lot 2, to be known as Manhattan Marketplace Shops, Unit Two, Commercial PUD.

- August 3, 2009      City Commission accepts easements and rights-of-way of Manhattan Marketplace Shops, Unit Two, Commercial Planned Unit Development.
- June 21, 2010      Manhattan Urban Area Planning Board approves the Final Development Plan of Lot 3, Manhattan Marketplace Commercial PUD, and the replat of Lot 3, to be known as the Final Plat Lot 1, Manhattan Marketplace Addition, Unit 3, for the construction of Longhorns Steakhouse Restaurant.
- July 6, 2010      City Commission accepts the easements and rights-of-way as shown on the Plat Lot 1, Manhattan Marketplace Addition, Unit 3; and authorizes Mayor and City Clerk to execute the Agreement regarding construction and maintenance of the travel easements.

**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 amendments are 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 Amendments is an integral part of the overall downtown redevelopment project. Substantial public investment has been made 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.

**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 Ordinance No. 6682 and the approved Final Development Plan of Lot 1, Manhattan Marketplace Shops, Unit One; and, an amendment of Ordinance No. 6544 and the approved Preliminary Development Plan of Lot 14, Manhattan Marketplace, Unit Two, to be known as the Final Development Plan of Manhattan Marketplace Shops, Unit Three, Planned Unit Development, subject to the following conditions:

1. Building lights shall be full cutoff and downcast.
2. Outdoor seasonal sidewalk sales in front of Dick's Sporting Goods shall be limited to an area under the canopy and conducted in a manner so as to remain ADA compliant, meet Building and Fire Code requirements, and shall not restrict pedestrian movements. Outdoor seasonal sidewalk sales display may occur once during each of the four seasons: winter, spring, summer, and fall, and shall be limited to a maximum of two weeks during each season, with a minimum of two weeks between each outdoor seasonal sidewalk display.
3. The wall sign on Building J shall be reduced to 95-square feet in area.
4. A cornice or ornamental cap shall be provided along all street facades on Building K, and shall be provided with the building permit plans and accepted by the City.
5. The billboard graphic signs on the south façade of Building K shall be eliminated.
6. All provisions of Ordinance No. 6544 and Ordinance No. 6682 that are not in conflict with this amendment shall remain in force.

**ALTERNATIVES:**

1. Recommend approval of the proposed amendment of Ordinance No. 6682 and the approved Final Development Plan of Lot 1, Manhattan Marketplace Shops, Unit One; and, an amendment of Ordinance No. 6544 and the approved Preliminary Development Plan of Lot 14, Manhattan Marketplace, Unit Two, to be known as the Final Development Plan of Manhattan Marketplace Shops, Unit Three, Planned Unit Development, stating the basis for such recommendation.

*Attachment No. 5*

2. Recommend denial of the proposed amendment of Ordinance No. 6682 and the approved Final Development Plan of Lot 1, Manhattan Marketplace Shops, Unit One; and, an amendment of Ordinance No. 6544 and the approved Preliminary Development Plan of Lot 14, Manhattan Marketplace, Unit Two, to be known as the Final Development Plan of Manhattan Marketplace Shops, Unit Three, Planned Unit Development, 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 Ordinance No. 6682 and the approved Final Development Plan of Lot 1, Manhattan Marketplace Shops, Unit One; and, an amendment of Ordinance No. 6544 and the approved Preliminary Development Plan of Lot 14, Manhattan Marketplace, Unit Two, to be known as the Final Development Plan of Manhattan Marketplace Shops, Unit Three, Planned Unit Development, based on the findings in the Staff Report, subject to the six conditions of approval recommended by City Administration.

**PREPARED BY:** Steve, AICP, Senior Planner

**DATE:** October 15, 2010; Revised October 18, 2010/Condition 2.

**STAFF REPORT**

**ON AN APPLICATION TO REZONE PROPERTY**

**FROM:** County G-1, General Agricultural District.

**TO:** R, Single-Family Residential District with AO, Airport Overlay District

**APPLICANT:** Shirley Stone

**ADDRESS:** 429 Stone Drive, Manhattan, KS 66503

**OWNERS:** G. Rex Stone Trust and Shirley Stone Trust – Shirley Stone, Trustee

**ADDRESS:** 429 Stone Drive, Manhattan, KS 66503

**LOCATION:** Generally located east of N. Scenic Drive and approximately 350 feet southeast of the southern intersection of N. Scenic Drive and Highland Ridge Drive.

**AREA:** 124,364 square feet (2.85 Acres)

**DATE OF PUBLIC NOTICE PUBLICATION:** September 13, 2010

**DATE OF PUBLIC HEARING: PLANNING BOARD:** October 4, 2010

**CITY COMMISSION:** November 2, 2010

**EXISTING USE:** Wooded rangeland

**PHYSICAL AND ENVIRONMENTAL CHARACTERISTICS:** The site is covered with native grasses and dense deciduous and evergreen tree coverage. The eastern portion of the site has a natural drainage area that runs from south to north. The majority of the site slopes from the west to the east towards the natural drainage area. The eastern side of the site slopes to the west towards the drainage area. No part of the site is within mapped flood zones (Zone AE The entire site is entirely within the Conical Zone of Manhattan's Regional Airport, which requires that the AO, Airport Overlay District, be added to site. Future uses (structures and trees), which are within the limits of the Conical Zone may be required to obtain, and be granted, an Airport Compatible Use Permit prior to construction, planting or change to the structure or tree (see below under CONSISTENCY WITH INTENT AND PURPOSE OF THE ZONING ORDINANCE for further information concerning the AO District).

**SURROUNDING LAND USE AND ZONING:**

- (1) **NORTH:** The larger tract that the site is being subdivided from, with a single-family home, multiple-family apartments under construction and single-family attached homes; County G-1, General Agriculture District, Stone Pointe Addition, Unit One, R-2, Two-Family Residential District and R-3, Multiple-Family Residential District.
- (2) **SOUTH:** Single-family homes and single-family townhomes; Stone Pointe Addition, Unit Two, Stone Pointe Townhomes, Units One and Two, R/AO, Single-Family Residential District with Airport Overlay District and PUD/AO, Residential Planned Unit Development with Airport Overlay.
- (3) **EAST:** Single-family homes; Stone Pointe Addition, Unit Two, R/AO and R-1/AO, Single-Family Residential District with Airport Overlay District
- (4) **WEST:** N. Scenic Drive, a two-lane county road with varying ROW widths, undeveloped rangeland and single-family homes; County G-1, Highland Meadows Units One and Two, R-1/AO

**GENERAL NEIGHBORHOOD CHARACTER:** To the north and east is the large unplatted tract of land that the site is being subdivided from and is proposed to be rezoned. Further to the north and to the south is the developing Stone Pointe residential neighborhood. To the north are the Stone Pointe apartments, single-family attached homes and single-family homes. To the south are the Stone Pointe Townhome developments. To the west is undeveloped rangeland and the developing Highland Ridge residential Neighborhood. The site is separated from the rangeland and the Highland Ridge neighborhood by N. Scenic Drive, a two-lane, paved county road.

**SUITABILITY OF SITE FOR USES UNDER CURRENT ZONING:** The site is suitable as open rangeland for pasture or grazing uses. The site would need to be platted and rezoned for a single-family home if it were to remain outside of the City and under Riley County's jurisdiction. The site is bounded by urban development on the north, south and east and partially to west. The suitability of the site for County G-1 uses is limited by surrounding uses.

**COMPATIBILITY OF PROPOSED DISTRICT WITH NEARBY PROPERTIES AND EXTENT TO WHICH IT MAY HAVE DETRIMENTAL AFFECTS:** The adjacent properties to the south and east are low-density, single-family subdivisions. The change of the site from wooded rangeland to the proposed large lot, single-family home should not increase the amount of light, noise and traffic to adversely affect nearby properties. The proposed rezoning is compatible with nearby properties of the same zoning and no adverse affects are expected.

**CONFORMANCE WITH COMPREHENSIVE PLAN:**

The site is shown on the Future Land Use map in the Southwest Planning Area as a combination of Residential Medium/High (RMH) Density and Preserved Open Space designation. The site is entirely in the Conical Zone of the Manhattan Regional Airport. The AO District will be added as an overlay district to the Stone Tract, No. 1 Addition. The RMH designation is along the west side of the site. The remaining portion of the site is shown as the Preserved Open Space designation. Applicable policies in bold and italics include:

**CHAPTER 4, LAND USE AND GROWTH MANAGEMENT: RESIDENTIAL MEDIUM/HIGH DENSITY (RMH)**

***RMH 1: Characteristics***

*The Residential Medium/High Density designation shall incorporate a mix of housing types in a neighborhood setting in combination with compatible nonresidential land uses, such as retail, service commercial, and office uses, developed at a neighborhood scale that is in harmony with the area's residential characteristics and in conformance with the policies for Neighborhood Commercial Centers. Appropriate housing types may include a combination of small lot single-family, duplexes, townhomes, or fourplexes on individual lots. However, under a planned unit development concept, or when subject to design and site plan standards (design review process), larger apartment or condominium buildings may be permissible as well, provided the density range is complied with.*

***RMH 2: Appropriate Density Range***

*Densities within a Residential Medium/High neighborhood range from 11 to 19 dwelling units per net acre.*

***RMH 3: Location***

*Residential Medium/High Density neighborhoods should be located close to arterial streets and be bounded by collector streets where possible, with a direct connection to work, shopping, and leisure activities.*

***RMH 4: Variety of Housing Styles***

*To avoid monotonous streetscapes, the incorporation of a variety of housing models and sizes is strongly encouraged.*

**NRE 1: Corridors, Buffers, and Linkages and Preserved Open Space**

*The City and County should use a variety of methods (both public and private) to facilitate the creation of a continuous, permanent, system of open space corridors using natural features such as preserved open space areas, drainages, streams, and rivers to the extent possible. Corridors should be identified during the subdivision or master planning process*

*and should be used to provide linkages within and between non-contiguous parks, environmentally sensitive and preserved open space areas, as well as neighborhoods and other development areas. Buffers can also be used to provide a transition between different intensities of uses. The current width and shape and other features of a naturally occurring corridor (such as a drainage way) should be preserved, in order to maintain its environmental integrity and avoid creating an “engineered” appearance.*

### **NRE 3: Trails Network**

*The City and County shall use a variety of methods to develop a system of open space that is connected, continuous, and permanent. The Linear Trail, which currently follows parts of Wildcat Creek, and the Big Blue and Kansas Rivers, represents the beginnings of a network of trails and open space that will link various areas of the City. Tributary drainage channels and other potential pedestrian corridors should also be incorporated as part of the overall network as they become integrated into residential areas.*

### **NRE 4: Environmentally Sensitive Areas: Wildlife Habitat and Corridors, Wetlands, Riparian Areas and Prairie Ecosystems**

*The Urban Area is home to a variety of environmentally sensitive areas, including: Wildcat Creek, the Big Blue and Kansas Rivers, numerous secondary stream corridors, drainage areas, and wetlands, as well as prairie ecosystems. In addition to their scenic quality, these areas provide other benefits, such as water quality enhancement and flood control, potential ecotourism, and also serve as important wildlife habitat. The City and County shall work to ensure that development impacts upon these areas are minimized.*

### **NRE 5: Environmentally Sensitive Site Design**

*The City and County shall ensure that environmentally sensitive site design practices are used in new development. Sensitive site design practices can minimize unnecessary physical and visual impacts upon the surrounding landscape, caused by excessive removal of existing vegetation or severe roadway cuts and excessive grading of natural topography.*

### **NRE 6: Natural Hazards**

*Development shall be prohibited in areas where natural hazards have been identified which have the potential to endanger life, resources, and property. Within the Manhattan Urban Area, these hazards include steep slopes (20% or greater slope), floodways, and other special flood hazard areas.*

The proposed Stone Tract, No. 1 Addition, is a one (1) lot subdivision, with the Preliminary Plat showing a single-family residence to be located on the lot. The proposed density of Stone Tract, No. 1 Addition, is 0.35 dwelling units per net acre. A drainage easement is proposed to be dedicated with the Final Plat that will preserve a natural drainage area in the eastern portion of the site. The proposed site is within the Conical Zone of the Manhattan Regional Airport. The AO District will be added as an overlay district to the R District.

The proposed rezoning conforms to the Comprehensive Plan.

**ZONING HISTORY AND LENGTH OF TIME VACANT AS ZONED:**

The site has remained undeveloped to date and zoned County G-1 District.

**CONSISTENCY WITH INTENT AND PURPOSE OF THE ZONING ORDINANCE:** The intent and purpose of the Zoning Regulations is to protect the public health, safety, and general welfare; regulate the use of land and buildings within zoning districts to assure compatibility; and to protect property values.

The R District is designed to provide a single-family dwelling zone at a density no greater than one dwelling unit per 10,000 square feet. The one (1) lot proposed with the Stone Tract, No. 1 Addition exceeds 10,000 square feet in area.

The AO District “is intended to promote the use and development of land in a manner that is compatible with the continued operation and utility of the Manhattan Municipal Airport so as to protect the public investment in, and benefit provided by the facility to the region. The district also protects the public health, safety, convenience, and general welfare of citizens who utilize the facility or live and work in the vicinity by preventing the creation or establishment of obstructions or incompatible land uses that are hazardous to the airport's operation or the public welfare.”

The site is entirely within the Conical Zone, which is, in general terms, established as an airspace that extends outward and upward in relationship to the Airport and is an approach zone height limitation on the underlying land. Future uses (structures and trees, existing and proposed) in the AO District may be required to obtain an Airport Compatible Use Permit, unless circumstances indicate that the structure or tree has less than 75 vertical feet of height above the ground and does not extend above the height limits prescribed for the Conical Zone (pages 6-9 of the AO District regulations attached).

**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 gain to the public that denial would accomplish. The AO District requires that future uses be reviewed in order to protect airspace. The proposed Concurrent Plat conforms to the Manhattan Urban Area Subdivision Regulations. It may be a hardship to the applicant if the rezoning is denied.

**ADEQUACY OF PUBLIC FACILITIES AND SERVICES:** Adequate public services, sanitary sewer, water, and public streets can be extended to serve the development.

**OTHER APPLICABLE FACTORS:** None.

**STAFF COMMENTS:**

City Administration recommends approval of the proposed rezoning of Stone Tract, No. 1 Addition, which is generally located east of N. Scenic Drive and approximately 350 feet southeast of the southern intersection of N. Scenic Drive and Highland Ridge Drive, from County G-1, General Agricultural District, to R, Single-Family Residential District with AO, Airport Overlay District.

**ALTERNATIVES:**

1. Recommend approval of the proposed rezoning of Stone Tract, No. 1 Addition from County G-1, General Agricultural District, to R, Single-Family Residential District with AO, Airport Overlay District, stating the basis for such recommendation.
2. Recommend denial of the proposed rezoning, stating the specific reasons for denial.
3. Table the proposed rezoning to a specific date, for specifically stated reasons.

**POSSIBLE MOTION:**

The Manhattan Urban Area Planning Board recommends approval of the proposed rezoning of Stone Tract, No. 1 Addition from County G-1, General Agricultural District, to R, Single-Family Residential District with AO, Airport Overlay District, based on the findings in the Staff Report.

**PREPARED BY:** Chad Bunger, AICP, CFM, Planner II

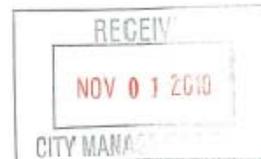
**DATE:** September 24, 2010

CB/vr  
1004



Where all can learn

October 28, 2010



Hon. Bruce Snead, Mayor  
City of Manhattan  
1101 Poyntz Avenue  
Manhattan, KS 66502

Re: Proposed Water Billing Change

Dear Mayor Snead:

Notices were received in school offices last week that the City Commission will be considering a Resolution to terminate the provision of free water to churches and public schools. Manhattan-Ogden USD 383 currently pays for water used in non-student attendance buildings as well as water used for irrigation purposes. The 2009 cost to USD 383 of this change as provided by City staff would have been \$27,200.

The School District requests that the long-standing agreement continue. The District believes there is a contract for the benefit of the District that cannot be unilaterally dissolved by resolution. Furthermore, the greater good of providing water for students and teachers in our schools offsets the \$27,200 revenue the City would gain should the agreement be dissolved. Additionally, there is no constitutional impediment where schools are concerned.

Respectfully,

Susan Marshall, President  
Manhattan-Ogden USD 383 Board of Education

Cc: Jayme Morris-Hardeman, Commissioner  
Loren Pepperd, Commissioner  
James Sherow, Commissioner  
Bob Strawn, Commissioner  
Ron Fehr, City Manager  
Bernie Hayen, Director of Finance