



***MINUTES***  
***CITY COMMISSION MEETING***  
***TUESDAY, NOVEMBER 16, 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, Assistant City Attorney Katharine Jackson, City Clerk Gary S. Fees, 10 staff, and approximately 35 interested citizens.

**PLEDGE OF ALLEGIANCE**

Mayor Snead led the Commission in the Pledge of Allegiance.

**COMMISSIONER COMMENTS**

Mayor Snead provided an overview on items mentioned during the Discussion/Briefing Session held prior to the City Commission Legislative Meeting. The Commission discussed the results of the General Obligation Bond sale, Transportation Development District (TDD) Bonds, and Temporary Notes sale; discussed the ongoing review that staff is conducting on rights-of-way and dumpster issues; discussed the wayfinding and signage public meeting on Wednesday, November 17, 2010, at 6:30 p.m. in the City Commission Room; announced that the Sunset Zoo groundbreaking will be held on Friday, November 19, 2010, at 3:00 p.m. at the Sunset Zoo; received an update on an upcoming meeting for the Transit Plan; received an update on meetings with the Flint Hills Regional Council; discussed a future public meeting at City Hall on the proposed Wilson Field renovation in City Park; discussed the possible development of a Cultural Advisory Board as a future Work Session item; discussed the draft ordinance and information regarding the discrimination ordinance; and discussed potential term limits for City Commissioners and asked the legal staff to draft an ordinance for consideration on a future City Commission agenda.

**CONSENT AGENDA**  
(\* denotes those items discussed)

**MINUTES**

The Commission approved the minutes of the Regular City Commission Meeting held Tuesday, November 2, 2010.

**CLAIMS REGISTER NO. 2654**

The Commission approved Claims Register No. 2654 authorizing and approving the payment of claims from October 27, 2010, to November 09, 2010, in the amount of \$5,086,689.33.

**LICENSES**

The Commission approved a *Tree Maintenance License* for calendar year 2011 for Blueville Nursery, Inc., 4539 Anderson Avenue; Eager Beavers Landscaping, Inc., 7020 Cedar Creek Road; Mugler Tree Care, 2400 West 60<sup>th</sup> Avenue; S S Tree Service, LLC, 820 Lyndon Avenue, Alma; and Tree Design, dba Three Men Tree Service, 255 Ridge Drive; an annual *Cereal Malt Beverage On-Premises License* for Bushwackers, 531 North Manhattan Avenue; and So Long Saloon, Inc., 1130 Moro Street; and an annual *Cereal Malt Beverage Off-Premises License* for Ampride, 215 E. Poyntz Avenue; Dara's Fast Lane #1, 1816 Claflin Road; Dara's Fast Lane #2, 3270 Kimball Avenue; Dara's Fast Lane #3, 473 East Poyntz Avenue; Dara's Fast Lane #5, 1102 Laramie Street; Dara's Fast Lane #6, 2707 Anderson Avenue; Dara's Fast Lane #7, 1709 Fort Riley Boulevard; Dara's Fast Lane #10, 2323 Tuttle Creek Boulevard; Dara's Fast Lane #12, 1701 Anderson Avenue; and Kwik Shop #733, 1337 Anderson Avenue.

\* **FINAL PLAT – LEE MILL HEIGHTS ADDITION, UNIT SEVEN**

The Commission accepted the easements and rights-of-way, as shown on the Final Plat of Lee Mill Heights Addition, Unit Seven, generally located west of the dead-end of Miller Parkway and Laussac Drive, based on conformance with the Manhattan Urban Area Subdivision Regulations.

**ORDINANCE NO. 6860 – REZONE – WEST LOOP SHOPPING CENTER**

The Commission approved Ordinance No. 6860 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. 1*), with the 15 Conditions of Approval as recommended by the Manhattan Urban Area Planning Board.

## CONSENT AGENDA (CONTINUED)

### ORDINANCE NO. 6861 – ISSUE – GENERAL OBLIGATION BONDS (SERIES 2010-B)

The Commission approved Ordinance No. 6861 issuing \$11,720,000.00 in general obligation bonds (Series 2010-B) to finance the following five (5) capital improvement projects: *City Park Pool (CP0901)*, *US 24 and Marlatt Avenue (ST0612)*, *Runways 3/31 and 13/31 design (AIP 35)*, *relocation of navigational aid equipment (AIP 36)*, and *shift of Runway 3/21 (AIP 37/38)*; and approved Resolution No. 111610-A authorizing delivery of the Series 2010-B bonds to the low bidder.

### ORDINANCE NO. 6862 – ANNEX – STONE TRACT NO. 1 ADDITION

The Commission approved Ordinance No. 6862 annexing the proposed Stone Tract No. 1 Addition, generally located east of North Scenic Drive, based on conformance with the Comprehensive Plan, the Growth Vision, and the Capital Improvements Program.

### ORDINANCE NO. 6863 – REZONE – STONE TRACT NO. 1 ADDITION

The Commission approved Ordinance No. 6863 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. 2*) and the recommendation of the Planning Board.

### FINAL PLAT – STONE TRACT NO. 1 ADDITION

The Commission accepted the easements and rights-of-way, as shown on the Final Plat of Stone Tract No. 1 Addition, generally located east of North Scenic Drive and approximately 350 feet southeast of the southern intersection of North Scenic Drive and Highland Ridge Drive, based on conformance with the Manhattan Urban Area Subdivision Regulations.

### ORDINANCE NO. 6864 – ISSUE – TDD BONDS

The Commission approved Ordinance No. 6864 issuing Transportation Development District Sales Tax Revenue Bonds for the North Redevelopment Project and approved Resolution No. 111610-B authorizing delivery of the bonds.

### PUBLIC HEARING – RECOVERY ZONE FACILITY BONDS – GTM SPORTSWEAR, INC.

Mayor Snead opened the public hearing.

Hearing no comments, Mayor Snead closed the public hearing.

## CONSENT AGENDA (CONTINUED)

\* **ORDINANCE NO. 6865 – RECOVERY ZONE FACILITY BONDS – GTM SPORTSWEAR, INC.**

The Commission approved Ordinance No. 6865 amending Ordinance No. 6850 authorizing the issuance of Recovery Zone Facility Bonds and Industrial Revenue Bonds for GTM Sportswear, Inc., located at 520 McCall Road.

**ORDINANCE NO. 6866 – FINAL DEVELOPMENT PLAN – MANHATTAN MARKETPLACE SHOPS, UNIT THREE, PUD**

The Commission approve Ordinance No. 6866 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 North 3<sup>rd</sup> Place, and south of Bed, Bath & Beyond, based on the findings in the Staff Report (*See Attachment No. 3*), with the six conditions of approval as modified and recommended by the Manhattan Urban Area Planning Board.

**RESOLUTION NO. 111610-C – ISSUE – TEMPORARY NOTE SERIES NO. 2010-04**

The Commission approved accepting the best bid for selling the notes from UMB Bank, n.a., Kansas City, Missouri; and approved Resolution No. 111610-C issuing Temporary Note Series No. 2010-04 in the amount of \$9,210,000.00 to finance the following 12 special assessment and capital projects to be debt financed: *Barton Place, Unit 2, Phase 2, Street Improvements (ST0620); Grande Bluffs at Mill Pointe, Unit 1, Sanitary Sewer (SS1008), Street (ST1008), and Water (WA1007) Improvements; Lee Mill Heights Addition, Unit 4, Phase 2, Sanitary Sewer (SS1009), Street (ST1012), and Water (WA1008) Improvements; McCall Road – Street and Storm Water Improvements (ST0821); CiCo Pool Renovation (CP0902); Northview Pool Replacement (CP0903); Zoo Education Building (SZ0901); and McCall Road 24-inch Water Lines (WA1018).*

**RESOLUTION NO. 111610-D – AMENDED PETITION – GRANDE BLUFFS AT MILL POINTE, UNIT ONE – SANITARY SEWER IMPROVEMENTS (SS1008)**

The Commission approved Resolution No. 111610-D amending Resolution No. 061510-B, finding the project advisable, and authorizing construction of sanitary sewer (SS1008) in Grande Bluffs at Mill Pointe, Unit One.

## CONSENT AGENDA (CONTINUED)

### AWARD CONTRACT – SMITH AND MANFAX RELIEF SANITARY SEWER (SS0901)

The Commission accepted the Engineer's Estimate in the amount of \$573,541.25 and awarded a construction contract to J and K Contracting, Inc., of Junction City, Kansas, in the amount of \$479,408.21 for the Smith and Manfax Relief Sanitary Sewer Project (SS0901).

### FIRST READING – ISSUE GENERAL OBLIGATION BONDS – SMITH AND MANFAX RELIEF SANITARY SEWER (SS0901)

The City Commission approved first reading of an ordinance authorizing the issuance of General Obligation Bonds to finance the Smith and Manfax Relief Sanitary Sewer project (SS0901).

### CANCELLATION OF KDOT AGREEMENT – RIGHT TURN LANES FROM CLAFLIN ROAD ONTO SETH CHILD ROAD (ST0704)

The Commission authorized the Mayor and City Clerk to execute a Cancellation Agreement with KDOT for the current state-aid agreement (Agreement No. 54-07).

### KDOT GRANT OFFER – CLAFLIN ROAD CORRIDOR (BEECHWOOD TERRACE TO SETH CHILD ROAD) (ST1015)

The Commission authorized the Mayor and City Clerk to execute a new grant offer (Agreement No. 190-10) from KDOT for the Claflin Road Corridor, from Beechwood Terrace to Seth Child Road (K-113), and directed City Administration to proceed toward this project in a manner that will facilitate construction in summer 2011.

### CHANGE ORDER NO. 2-FINAL – PROJECT 15 (SM0806)

The Commission approved Change Order No. 2 - Final for Project 15 (SM0806), resulting in a net decrease in the amount of \$79,854.50 (-2.3%) to the contract with Dondlinger and Sons Construction, of Wichita, Kansas.

### CHANGE ORDER NO. 1-FINAL – 2010 STREET MAINTENANCE PROJECT-PART A, ASPHALT MILL AND OVERLAY (ST1007)

The Commission approved Change Order No. 1 – Final for the 2010 Street Maintenance Project – Part A, Asphalt Mill and Overlay project, resulting in a net decrease in the amount of \$53,869.41 (-11.2%) to the contract with Shilling Construction Company Inc., of Manhattan, Kansas.

## CONSENT AGENDA (CONTINUED)

### CHANGE ORDER NO. 1-FINAL – 2010 STREET MAINTENANCE-PART C, AIRPORT PARKING LOT (ST1010)

The Commission approved Change Order No. 1 - Final for the 2010 Street Maintenance Project – Part C, Airport Parking project (ST1010), resulting in net decrease in the amount of \$27,426.50 (-34.5%) to the contract with Shilling Construction Company Inc., of Manhattan, Kansas.

\* **AGREEMENT – PROFESSIONAL SERVICES – AFRICAN-AMERICAN CULTURAL RESOURCES PROJECT**

Karen Davis, Director of Community Development, provided an overview on the item and responded to questions from the Commission.

The Commission authorized City Administration to finalize and the Mayor and City Clerk to execute an agreement for professional services with Deon Wolfenbarger, Three Gables Preservation, of Nederland, Colorado, for the African-American Cultural Resources Project.

### AGREEMENT – PROFESSIONAL SERVICES – FIXED-ROUTE TRANSIT IMPLEMENTATION PLAN

The Commission authorized the Mayor and City Clerk to execute a professional services agreement with HDR Engineering, of Kansas City, Missouri, to prepare the Fixed-Route Transit Implementation Plan.

\* **AMEND – MINIMUM ASSESSMENT AGREEMENT – LOT 9, NORTH REDEVELOPMENT DISTRICT**

Jason Hilgers, Assistant City Manager, provided additional information on the item and responded to questions from the Commission.

Rich Seidler, representing McCullough Development, provided clarification on the item and responded to questions from the Commission.

The Commission authorized City Administration to finalize and the Mayor and City Clerk to execute the extension of the existing Minimum Assessment Agreement for Lot 9 until 2013.

### BOARD APPOINTMENTS

The Commission approved appointments by Mayor Snead to various boards and committees of the City.

## CONSENT AGENDA (CONTINUED)

### BOARD APPOINTMENTS (CONTINUED)

#### *Historic Resources Board*

Appointment of Derek Richards, 321 North 14<sup>th</sup> Street, to fill the unexpired Real Estate term of Brooke Norman-Tapp. Mr. Richards' term begins immediately and will expire April 30, 2011.

#### *Riley County-Manhattan Health Board*

Appointment of Barb Sollner, 3414 Stonehenge Drive, to fill the unexpired Nurse's term of Sandra Tabor and a two-year Nurse's term. Ms. Sollner's term begins immediately and will expire January 31, 2013.

### FINAL PLAT – MANHATTAN MARKETPLACE SHOPS ADDITION, UNIT THREE, PUD

The Commission accepted the easements and rights-of-way, as shown on the Final Plat of Manhattan Marketplace Shops Addition, Unit Three, Planned Unit Development, generally located north of Osage Street, east of N. 4<sup>th</sup> Street and west of 3<sup>rd</sup> Place, based on conformance with the Manhattan Urban Area Subdivision Regulations.

### RESTRICTIVE COVENANT-TRAVEL – MANHATTAN MARKETPLACE SHOPS ADDITION, UNIT THREE

The Commission authorized the Mayor and City Clerk to execute the Restrictive Covenant-Travel regarding construction and maintenance of the travel easements at Manhattan Marketplace Shops Addition, Unit Three.

After discussion, Commissioner Sherow moved to approve the consent agenda, as read. Commissioner Morris-Hardeman seconded the motion.

After additional discussion on a roll call vote, motion carried 5-0, with the exception of Item D, FINAL PLAT – LEE MILL HEIGHTS ADDITION, UNIT SEVEN, which carried 4 to 1, with Commissioner Pepperd voting against the item; with the exception of Item J, ORDINANCE NO. 6865 – RECOVERY ZONE FACILITY BONDS – GTM SPORTSWEAR, INC., which carried 4-0, with Commissioner Strawn abstaining from the item; and, with the exception of Item T, AMEND – MINIMUM ASSESSMENT AGREEMENT – LOT 9, NORTH REDEVELOPMENT DISTRICT, which carried 4-1, with Commissioner Strawn voting against the item.

## GENERAL AGENDA

### LOAN WAIVER REQUEST - MANHATTAN EMERGENCY SHELTER, INC.

Karen Davis, Director of Community Development, presented background information on the item and the request from the Manhattan Emergency Shelter, Inc.

Emily Wagner, Interim Executive Director, Manhattan Emergency Shelter, Inc., provided additional information on the item and requested that the remaining balance of the loan the City of Manhattan holds with the Manhattan Emergency Shelter, Inc. be forgiven. She then responded to questions from the Commission regarding the outstanding balance of the loan, number of individuals and families currently being served, fundraising efforts, and stated that the desire would be to use these funds for match money for two federal supportive housing grants.

Therese Miller, President, Board of Directors, Manhattan Emergency Shelter, Inc., requested that the Commission consider their proposal and stated that this is also an economic development issue, as they have created jobs and provided permanent housing. She then responded to questions from the Commission regarding the consideration of an extension on the no-interest loan for two years.

After discussion of the Commission, Commissioner Strawn moved to extend the no-interest loan of approximately \$81,000 for a period of two years to the Manhattan Emergency Shelter, Inc., and authorize the Mayor and City Clerk to execute formal documents as prepared by the Legal staff. Commissioner Pepperd seconded the motion.

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

### FIRST READING – REZONE - INDEPENDENCE PLACE PLANNED UNIT DEVELOPMENT

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

David Spearman, representing the applicant Place Properties, 3445 Peachtree Road NE, Suite 1400, Atlanta, Georgia, presented information about his company and the project. He informed the Commission that his company is excited about coming to Manhattan and stated that Place Properties builds, develops, and manages all their properties for the long term. He responded to questions from the Commission regarding the proposed trash compactor and location, geological analysis, preservation and maintenance of the open space, and provided additional information on the proposed Planned Unit Development. He then indicated that based on a geological analysis, one building might need to be eliminated due to the amount of necessary fill and asked to be given the ability to add some or all of those dwelling units to one or more of the remaining buildings.

## GENERAL AGENDA (CONTINUED)

### FIRST READING – REZONE - INDEPENDENCE PLACE PLANNED UNIT DEVELOPMENT (CONTINUED)

Mark Bachamp, Schultz Construction, provided additional information on the proposed Planned Unit Development and the detention basins. He informed the Commission that he was working on a draft petition with City Staff.

Eric Cattell, Assistant Director for Planning, provided clarification on the item and then responded to questions from the Commission on the available options and if an additional condition was added by the Commission.

David Spearman, representing the applicant Place Properties, 3445 Peachtree Road NE, Suite 1400, Atlanta, Georgia, responded to questions from the Commission regarding a potential tenth amendment that would provide additional flexibility without the need to amend the PUD.

Eric Cattell, Assistant Director for Planning, provided clarification on the proposed motion and responded to questions from the Commission regarding suggested wording if the Commission wanted to add a tenth condition to allow flexibility. He stated that the tenth condition would need to include that if removal of an apartment building becomes necessary, the square footage may be distributed to one or more of the other apartment buildings.

After discussion, Commissioner Sherow moved to override the Manhattan Urban Area Planning Board's recommendation and approved first reading of an ordinance rezoning the proposed Independence Place PUD, generally located 600 feet east of the intersection of Scenic Drive and Powercat Place, from R-3, Multiple-Family Residential District with AO, Airport Overlay District, to PUD, Residential Planned Unit Development District with AO, Airport Overlay District, based on the findings in the Staff Report (*See Attachment No. 4*) with the nine conditions recommended by the Planning Board, and adding Condition 10, as follows, and recommended by the City Commission:

10. If removal of an apartment building becomes necessary, that square footage may be distributed to one or more of the other apartment buildings.

Commissioner Pepperd seconded the motion.

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

## GENERAL AGENDA (CONTINUED)

### ORDINANCE NOS. 6841-6849 – ADOPT - 2009 INTERNATIONAL CODES, 2008 NATIONAL ELECTRICAL CODE

Brad Claussen, Building Official, presented an overview on the item and provided additional information on the proposed language for reinspection fees and on safe rooms and storm shelters. He then responded to questions from the Commission on the reinspection fee, safe rooms, and storm shelters.

Ryan McDonald, McDonald Construction and representing the Flint Hills Area Builder's Association Board of Directors, provided additional information on the item and read a prepared letter from the Flint Hills Area Builder's Association voicing concerns with the proposed ordinance requiring safe rooms. He stated that a safe room could add up to \$5,000.00 for the cost of a home, which could be enough to put it out of the price range for buyers and could push them into less safe housing such as mobile homes, old homes, or apartments.

Eileen Meyer, President, Manhattan Association of Realtors, voiced opposition to the proposed ordinance requiring safe rooms and stated that adding costs to construct a safe room will not add to the price of the home. She stated that the market should decide and for the City Commission to consider the professional experience of Realtors and oppose the mandate of storm shelters in new construction in the proposed ordinance.

Tim Schultz, Schultz Construction, stated that it was unfair to single out slab homes and to consider the added costs in considerations to provide affordable housing. He encouraged the Commission to support the position of the Flint Hills Area Home Builder's Association.

Brice Ebert, Alliance Property Management, Inc., stated that he supported the position of the Flint Hills Area Home Builder's Association and was opposed to mandating storm shelters in Manhattan, given the already high costs associated with housing.

Sara Blair, Realtor, President Elect, Manhattan Association of Realtors, informed the Commission that she works with both buyers and sellers from other communities and that many have sticker shock when they get here and emphasized the importance of housing affordability in the community.

Neil Horton, Chairman, Manhattan Area Chamber of Commerce Board of Directors, informed the Commission that this item was presented earlier today to the Board of Directors at the Chamber and voiced support for the Flint Hills Area Home Builder's Association and their position, opposing the requirement for storm shelters to be built for slab grade home construction.

## GENERAL AGENDA (CONTINUED)

### ORDINANCE NOS. 6841-6849 – ADOPT - 2009 INTERNATIONAL CODES, 2008 NATIONAL ELECTRICAL CODE (CONTINUED)

Luther Pennell, Board of Directors, Manhattan Area Habitat for Humanity, requested that the Commission not make storm shelters a requirement and stated that the additional costs for construction will only make it more difficult for us to provide homes for clients. He then responded to questions from the Commission and said that he and others would be willing to discuss possible alternatives for safety.

Ron Hageman, President, Flint Hills Area Home Builder's Association, and Past President, Kansas Building Industry Association, informed the Commission that safe rooms are a great idea, but affordability was a concern and may force builders and buyers to move outside the city where safe rooms are not required. He stated that if people can afford to add a safe room they will, and as the demand for safe rooms increase, the ratio of homes built with safe rooms will increase accordingly, making it a market driven process rather than a mandate. He requested that the Commission delete the safe room mandate from the proposed Code.

After discussion of the Commission, Commissioner Strawn moved to remove the item from table and approve Ordinance Nos. 6841-6849 adopting the 2009 editions of the International Code package and 2008 National Electrical Code, excluding the storm shelter requirement, and amending sections of the Code of Ordinances, City of Manhattan, Kansas, relating to Buildings, Building Regulations and Fire Prevention. Commissioner Morris-Hardeman seconded the motion.

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

At 9:15 p.m., the Commission took a brief recess

### PUBLIC HEARING - 2011 WAGES - LOCAL 2275 OF THE INTERNATIONAL ASSOCIATION OF FIREFIGHTERS (IAFF)

Lauren Palmer, Assistant City Manager, presented an overview on the item and the recommendation of one percent to resolve the impasse, with the caveat to maintain equity between Union and Non-Union personnel. She then provided additional information on the item and responded to questions from the Commission about the Fact Finder Report, step programs within the Fire Department, and the Fire Department Budget for 2011.

Bernie Hayen, Director of Finance, responded to questions from the Commission on the General Fund Budget and the ability for the Budget to handle a one percent recommendation.

Mayor Snead opened the public hearing.

## GENERAL AGENDA (CONTINUED)

### PUBLIC HEARING - 2011 WAGES - LOCAL 2275 OF THE INTERNATIONAL ASSOCIATION OF FIREFIGHTERS (IAFF) (CONTINUED)

Tim Davenport, President, International Association of Fire Fighters (IAFF) Local 2275, provided the Commission with additional information in the Fact Finding Report and stated that Manhattan is about 3.5 percent below the average wage for 2010 and was about 2.5 percent below in 2009. He said the Union lost two firefighters in 2010 due to a combination of wages and the high cost of living. He stated that one firefighter hired from Garden City left almost immediately because he could not afford to live here. He then answered questions from the Commission regarding the negotiation process and provided additional information on peer firefighters.

Jason Hilgers, Assistant City Manager, and Lauren Palmer, Assistant City Manager, provided additional information regarding employee wages.

Cathy Harmes, Director of Human Resources, responded to questions from the Commission on salaries compared to other peers and on year-to-date turnover rates.

Lauren Palmer, Assistant City Manager, provided clarification on the percentage increase in the staff memorandum.

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

### RESOLUTION NO. 111610-E - 2011 WAGES - LOCAL 2275 OF THE INTERNATIONAL ASSOCIATION OF FIREFIGHTERS (IAFF)

After discussion of the Commission, Commissioner Sherow moved to approve Resolution No. 111610-E stating that all provisions of Article 7, Section 2 of the Memorandum of Agreement with Local 2275 of the International Association of Firefighters shall be adjusted upwards by 1% for each wage figure set forth therein, for a one-year period commencing December 26, 2010, through December 24, 2011; and direct City Administration to prepare a 2011 salary ordinance that reflects a comparable wage adjustment for Non-Union employees. Commissioner Morris-Hardeman seconded the motion.

Tim Davenport, President, International Association of Fire Fighters (IAFF) Local 2275, voiced concern in discrepancies with other government units in the area related to market adjustments and cost of living adjustments.

After additional discussion of the Commission, on a roll call vote, motion failed 3-2, with Mayor Snead and Commissioners Pepperd and Strawn voting against the motion.

## GENERAL AGENDA (CONTINUED)

### RESOLUTION NO. 111610-E - 2011 WAGES - LOCAL 2275 OF THE INTERNATIONAL ASSOCIATION OF FIREFIGHTERS (IAFF) (CONTINUED)

After additional discussion, Commissioner Strawn moved to approve Resolution No. 111610-E stating that all provisions of Article 7, Section 2 of the Memorandum of Agreement with Local 2275 of the International Association of Firefighters shall remain the same as they presently exist for a one-year period commencing December 26, 2010, through December 24, 2011.

Jason Hilgers, Assistant City Manager, provided clarification on the motion.

Commissioner Pepperd seconded the motion. After additional discussion, on a roll call vote, motion carried 3-2, with Commissioners Sherow and Morris-Hardeman voting against the motion.

### DISCUSSION - NONCONFORMING USE ISSUES

Karen Davis, Director of Community Development, introduced and provided background information on the zoning districts, nonconforming uses, and legally nonconforming uses.

Eric Cattell, Assistant Director for Planning, presented conflicting purposes of nonconforming use issues, altering nonconforming uses, determining legality, scope of the issue, and potential alternatives, including: change definition of legally conforming, grandfather code-compliant properties, hearing process, and combined alternatives for consideration.

Karen Davis, Director of Community Development, and Katie Jackson, Assistant Attorney, responded to questions from the Commission and provided additional information on the options presented and the potential process.

Brice Ebert, Alliance Property Management, Inc., informed the Commission that this issue has the ability to provide repercussions.

Dixie West, 1014 Houston Street, informed the Commission that the problem is not the Rental Inspection Program; the problem is abuse of residential buildings over the years and people doing illegal things to buildings. She asked that this be done on a case-by-case basis and to not provide a blanket grandfather on everything.

Karen Davis, Director of Community Development, and Eric Cattell, Assistant Director for Planning, responded to questions from the Commission and provided additional information on options and tools to consider.

## GENERAL AGENDA (CONTINUED)

### DISCUSSION - NONCONFORMING USE ISSUES (CONTINUED)

Jason Hilgers, Assistant City Manager; Brad Claussen, Building Official; and Katie Jackson, Assistant City Attorney, provided additional information on the item and on the Rental Inspection Program.

Regina Schroeder, Emerald Property Management, asked the Commission to put themselves in the shoes of an investor when a property goes from one owner to another owner without a Realtor. She stated that this item needs involvement from the bankers, tenants, and appraisers, and encompasses a lot of individuals and groups that would be affected.

The Commission discussed a consensus to change the definition of legally conforming, to review the data that the new Rental Inspection Program will provide, to evaluate the process in determining nonconforming use, and to gather additional information from community stakeholders.

Karen Davis, Director of Community Development, and Eric Cattell, Assistant Director for Planning, answered questions from the Commission.

Jason Hilgers, Assistant City Manager, informed the Commission that City Staff will continue to review and develop the definitions and provide scenarios to work through next time. He stated that this is a complex issue and responded to questions from the Commission on the Rental Inspection Program.

### ADJOURNMENT

At 11:24 p.m., the Commission adjourned.

  
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Gary S. Fees, MMC, City Clerk

**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.

	<b>PROPOSED LOT COVERAGE</b>	
<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

*Attachment No. 1*

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. 1*

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.

*Attachment No. 1*

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.

*Attachment No. 1*

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 were 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.

*Attachment No. 1*

**(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*

*Attachment No. 1*

*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.

**9. 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.

**10. 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. 1*

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**

**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.*

*Attachment No. 2*

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

## 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. 3*

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. 3*

- 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. 3*

- 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. 3*

- 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.

*Attachment No. 3*

- 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. 3*

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**

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

**BACKGROUND**

**FROM:** R-3, Multiple-Family Residential District and AO, Airport Overlay District.

**TO:** PUD, Residential Planned Unit Development District and AO, Airport Overlay District.

**APPLICANT:** Place Properties Military Development Services LLC – Mario Spinella. Development Manager.

**ADDRESS:** 3445 Peachtree Road NE, Suite 1400, Atlanta, GA 30326.

**OWNER:** Stone Crest Land Co., LLC – Tim Schultz.

**ADDRESS:** 1213 Hylton Heights Road, Manhattan, KS 66502.

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

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

**CITY COMMISSION:** Tuesday, November 16, 2010.

**LOCATION:** Generally 600 feet northeast of the Scenic Drive and Powercat Place intersection or approximately 515 feet directly east of Scenic Drive to the southwest corner of the site.

**AREA:** 37.8 acres.

**PROPOSED USE:** The proposed use is multiple-family residential. The applicant indicates the market is focused on upper ranking military with professionals, students and others also part of the expected tenants.

*Attachment No. 4*

The applicant had Phase II Intensive Archaeological Survey conducted on the site (attachment). The survey concludes no historic properties were found, but advises that the survey results do not guarantee that cultural resources are not buried and any resources that may be uncovered during construction means that all ground disturbance must cease and the State Archeologist must be promptly notified to determine the significance of the resources before development proceeds.

**PROPOSED BUILDINGS AND STRUCTURES:** An apartment complex consisting of 13, 24-unit apartment buildings with a mixture of one-bedroom, two-bedroom and three-bedroom units for a total of 312 dwelling units (96-one bedroom units; 192-two bedroom units; and 24-three bedroom units). Additional structures and improvements include a townhall (clubhouse) with meeting and exercise space, one story surface parking garages and open surface parking, swimming pool and central mail box.

Apartment Buildings

Buildings are three stories, approximately 48-feet in height, with Hardi plank siding, brick veneer, and architectural roof shingles. Exterior colors are sand, gray and white.

Townhall (Clubhouse)

The building is one-story, approximately 33-feet, in height. Interior space consists of meeting, exercise, lease, gathering space, and bathrooms. Adjoining the townhall is an outdoor swimming pool. The townhall is located near the entrance to the apartment complex.

Parking Garage

Buildings are one story, approximately 19-feet in height with exterior material and colors matching the apartment buildings and townhall. Parking spaces are enclosed with garage doors and wall separation between parking spaces. Storage units are proposed on each end of the garage building.

**PROPOSED LOT COVERAGE**

<u>Use</u>	<u>Acres/Square Feet</u>	<u>Percentage</u>
Buildings	3.25/141,650	8.6%
Right-of-way	0.86/37,650	2.3%
Driveways/ Sidewalks	5.87/255,550	15.5%
Open Space	21.25/926,100	56.2%
Landscape/Seeded	6.57/286,190	17.4%
TOTAL	37.80/1,647,140	100%

**PROPOSED SIGNS**

<u>Type</u>	<u>Dimensions</u>	<u>Lighting</u>
Ground (2)	7 feet by 2 feet	Ground lit

Two approximate 14 square foot in area ground entrance signs are located on a masonry base at each driveway entrance off Miller Parkway. Exempt signs for addressing and similar exempt signs will be permitted.

**PROPOSED LIGHTING:** Proposed lighting consists of pedestrian scale accent lighting on the residential and townhall buildings. 35-foot tall full cut off light poles are in the parking lots.

**REVIEW CRITERIA FOR PLANNED UNIT DEVELOPMENTS**

**1. LANDSCAPING:** Landscaping is functional for the site and consist of a broad range of foundation planting, lawn, perimeter and parking lot islands planting (evergreens shrubs, deciduous and broadleaf shrubs, ornamental grasses, and upright evergreens), trees (evergreen, deciduous, and ornamental) and perennial and ground cover, and lawn, all of which will be irrigated by underground sprinkling. Natural ground covers on steep hillsides will remain natural. The applicant will be responsible for maintenance of landscaped areas.

**2. SCREENING:** Large shrubs will be planted along the site's perimeter to buffer the parking and garage spaces. The trash compactor will be screened with a 7 foot 10 inch masonry wall and gate.

*Attachment No. 4*

**3. DRAINAGE:** The drainage system is designed in conformance with the adopted Stormwater Management Master Plan. Adequate provision for storm water drainage is provided, both on site and off-site. Storm water pipes and inlets on site will direct runoff to off-site detention basins, which ultimately drain to Wildcat Creek.

A Drainage Study was prepared by Schwab-Eaton, P.A. dated September 3, 2010 (*attached*). The City Engineer has reviewed the Study (*attachment*), and accepts the proposal with the condition that an updated drawing of the modified west detention/retention basin showing the existing and proposed grading limits for the existing basin, or the location of another detention basin/pond with size and grading limits. The proposal consists of detention, channelizing storm water and other improvements and will result in no adverse impact on downstream properties and reduce the rate of runoff downstream.

The PUD is conditioned upon the submittal of a restrictive covenant, which will need to be reviewed and approved by the City and filed with the Final Plat after it is executed by the City. The covenant sets out responsibilities of the owners of PUD and owners of adjacent property regarding maintenance of improvements, drainage easements the detention areas. The covenant gives the City the ability to assess the owners for maintenance costs, if necessary.

**4. CIRCULATION:** The internal circulation plan provides for safe, convenient and efficient movement of motorists and pedestrians. Conflicts between motorists and pedestrians are minimized. Internal access is by parking drives, which are maintained by the applicant.

The Independence Place Traffic Impact Study for the proposed PUD was prepared by Schwab-Eaton, PA., dated September, 2010 (*attachment*). The Study concludes minimal impact on future Miller parkway. Two entrances to the site are proposed, which provide adequate access for turning movements to and from the site.

The City Engineer has reviewed the Study (*attachment*), and accepts the Study as written.

Pedestrian traffic is accommodated for within the development and connects to the proposed public sidewalk on the north side of Miller Parkway at both curb cut intersections. The proposed sidewalk connections provide for a pedestrian friendly and accessible development. A bicycle route is also proposed along Miller parkway.

A 75-foot wide pedestrian easement and a proposed future pedestrian easement on the tract to the east will be dedicated to connect Miller Parkway and an existing pedestrian easement in Stone Pointe Addition, Unit Two. The pedestrian improvement within the easement is a future improvement with an unspecified date of construction.

Bike racks should be provided and shown on the Final Development Plan.

The Manhattan Zoning Regulations for multiple-family dwelling base the required number of spaces on bedrooms per dwelling unit ( one bedroom units – 2 spaces per unit; two bedroom units – 3 spaces per unit; three bedroom units - 3.5 spaces per unit; and four bedroom units - 4 spaces per unit). Based on the requirements of the Manhattan Zoning Regulations, the proposed apartment complex would need to provide a minimum of 852 off-street parking spaces (96-one bedroom units (192 spaces); 192-two bedroom units (576 spaces); 24-three bedroom units (84 spaces)). The applicant has proposed 709 total off-street parking spaces, equivalent to 2.3 parking spaces per unit (709/312), which should be adequate to serve the mix of bedroom types and tenant mix in the proposed PUD.

**5. OPEN SPACE AND COMMON AREA:** The applicant has made provisions for the continuity, preservation, care, conservation and maintenance of all open space within the development plan. Upon installation of landscaping, it will be maintained by the owner and watered by an underground sprinkling system. An erosion plan has been provided to protect slopes along the edge of the development.

**6. CHARACTER OF THE NEIGHBORHOOD:** The area is characterized as a developing growth corridor of the City with single-family, two-family and multiple-family residential development to the immediate north. Highland Meadows Additions are to the northwest. Development is occurring in the Lee Mill Heights and Miller Ranch areas, which are growing towards the site. The extension of Miller Parkway along the southern boundary of the proposed PUD and the Miller Parkway's connection at Scenic Drive will occur in the near future. The street connections will serve the immediate neighborhood and accommodate future access to other parts of the City.

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

**1. EXISTING USE:** Steeply sloped range land which is annexed, and was rezoned to R-3/AO Districts. The Preliminary Plat (*attachment*) of Lot 169, generally the tract to be rezoned to PUD/AO was approved November 6, 2006. A conceptual drawing of future building footprints on Lot 169 was included with the 2006 application (*attachment*).

**2. PHYSICAL AND ENVIRONMENTAL CHARACTERISTICS:** The site is typical Flinthills landform consisting of open range land, wooded draws on the east and west sides of the proposed site. The site is reasonably steep with slopes approximately 20% and drains generally to the north-northeast to Wildcat Creek.

The site is 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*).

The site will be graded to flatten and widen the existing contours for the proposed building site. The highest point on the site is at the south end at elevation 1268 feet, with finished floors at approximately 1237 feet. At the north end of the building site the highest contour is approximately 1245 feet with finished floor elevations at 1228 feet to 1237 feet. The proposed cuts at the southern end are necessary to match the street grade of Miller parkway.

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

**(a.) NORTH:** Single-family residential; R, Single-Family Residential District with AO District.

**(b.) SOUTH:** Agricultural and range land; G-1 District.

**(c.) EAST:** Agricultural and range land, single-family dwellings; G-1 District and R-1, Single-Family Residential District/AO.

**(d.) WEST:** Future undeveloped neighborhood commercial in previously approved Stone Pointe Unit Two preliminary plat, Scenic Drive, agricultural and open range land, and single-family dwellings; C-2, Neighborhood Shopping District/AO District, G-1 District and A-5, Single Family Residential District.

**4. CHARACTER OF THE NEIGHBORHOOD:** See above under PUD Criteria Number 6, CHARACTER OF THE NEIGHBORHOOD.

**5. SUITABILITY OF SITE FOR USES UNDER CURRENT ZONING:** The site is zoned for multiple-family uses and is suitable for the proposed use; however, the site has a steeply sloped topography, which limits its density for multiple-family residential development.

**6. COMPATIBILITY OF PROPOSED DISTRICT WITH NEARBY PROPERTIES AND EXTENT TO WHICH IT MAY HAVE DETRIMENTAL AFFECTS:** The site is in a growth corridor of the City. Increases in light, noise and traffic are expected, which should be similar to the same affects generated by Highland Meadows and Stone Pointe subdivisions. To the east is an R-3 District. To the west is undeveloped C-2 District. Low density residential neighborhoods are to the north and separated from the site by distance and elevation. The closest single-family lot to the north is approximately 280-feet from the developed part of the site. To the south is future Miller Parkway and undeveloped G-1 District. The site was found to generally be compatible with the neighborhood at the time of rezoning to R-3/AO District in September 2006.

**7. CONFORMANCE WITH COMPREHENSIVE PLAN:** The proposed site is shown on the Future Land Use map in the Southwest Planning Area as a combination of Residential Medium High Density (RMH), Preserved Open Space, and Special Planning Area policies. The site is in the Conical Zone of the Manhattan Regional Airport. The AO District will be added as an overlay district to the proposed PUD.

Applicable Policy Statements 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 non-residential 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.*

## CHAPTER 5: NATURAL RESOURCES AND ENVIRONMENT

### **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 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.*

## CHAPTER 13: SPECIAL PLANNING AREA POLICIES

### MILLER RANCH

#### **MR 4: Establish a Neighborhood Commercial Center**

*The development of a neighborhood center should be encouraged at the planned intersection of Miller Parkway and Scenic Drive to provide a range of services for residents of Miller Ranch and surrounding neighborhoods, and to minimize the need for cross-town trips to meet day-to-day needs.*

**MR 5: Views from Scenic Drive**

*Development, including signage, should be set back from Scenic Drive to protect views and existing vegetation. The master plan for Miller Ranch should incorporate a buffer zone or overlay area along Scenic Drive designed to protect views, existing vegetation, and other important attributes of the area's scenic quality. Development of a neighborhood center, as described in MR 4, should occur east of the Scenic Drive buffer or overlay and be sited in a manner that minimizes visual impact on the Scenic Drive Corridor.*

**MR 7: Airport Airspace Regulations**

*Development shall be consistent with established airspace regulations for the Manhattan Regional Airport and the Airport Master Plan.*

The proposed net density is 8.3 dwelling units per acre and the Plan suggest up to 19 dwelling units per net acre. The applicant has submitted a grading and erosion plan which does not result in excessive erosion and grading of the site. The majority of the site is preserved as open space. An archaeological survey if the site was conducted and “no historic properties” were found, but the negative result does not mean that cultural resources are not buried. If cultural resources are found during construction, all ground disturbance activity should cease and the State Archaeologist should be immediately notified.

The proposed Preliminary Development Plan conforms to the Comprehensive Plan.

**8. ZONING HISTORY AND LENGTH OF TIME VACANT AS ZONED:** The site has remained vacant to date as open range land. The zoning history for Lot 169 is:

July 17, 2006                      Manhattan Urban Area Planning Board recommends approval of annexation and rezoning of the Stone Pointe Addition, Unit Two, from G-1, General Agricultural District, to R, Single-Family Residential District with AO, Airport Overlay District; and R-3, Multiple-Family Residential District with AO, Airport Overlay District; and C-2, Neighborhood Shopping District with AO, Airport Overlay District.

August 15, 2006                      City Commission approves first reading of annexation and rezoning to R, Single-Family Residential District with AO, Airport Overlay District; and R-3, Multiple-Family Residential District with AO, Airport Overlay District; and C-2, Neighborhood Shopping District with AO, Airport Overlay District.

September 5, 2006 City Commission approves Ordinance Nos. 6564 and 6564 annexing and rezoning Stone Pointe Unit Two, to R, Single-Family Residential District with AO, Airport Overlay District; and R-3, Multiple-Family Residential District with AO, Airport Overlay District; and C-2, Neighborhood Shopping District with AO, Airport Overlay District.

November 6, 2006 Manhattan Urban Area Planning Board approves Preliminary Plat of Stone Pointe Addition, Unit Two.

**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 existing R-3 District is designed to provide a dwelling zone at a density no less than one (1) dwelling unit per 1,000 square feet. A filed restrictive covenant limits the total number of units to no more than 19-dwelling units per net acre. The owner has indicated they will request the City Commission to remove the covenant as the PUD will now control density on the lot. The proposed PUD's net density is 8.3 dwelling units per acre compared to a possible 19 dwelling units per acre.

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 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.

**10. 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. Public streets and utilities are, or will be available to serve the site, and must be available prior to issuance of a building permit. A drainage plan will reduce the impact of storm water on downstream properties. It may be a hardship on the owner if the rezoning is denied.

**11. ADEQUACY OF PUBLIC FACILITIES AND SERVICES:** For adequate vehicle and pedestrian access to the site, Miller Parkway will have to be extended from Scenic Drive and the proposed intersection of Scenic Drive and Powercat Place to the eastern edge of the PUD. This will have to happen prior to issuance of a building permit

Public sidewalk and bicycle lanes will be provided with the construction of Miller Parkway. A public water line will have to be extended to the site. Sanitary sewer is available and will connect to the north to Stone Pointe subdivision.

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

**13. STAFF COMMENTS AND RECOMMENDATION:** City Administration recommends approval of the proposed rezoning of Independence Place PUD from R-3, Multiple-Family Residential District and AO, Airport Overlay District to PUD, Residential Planned Unit Development District and AO, Airport Overlay District, with the following conditions of approval:

1. The Permitted Use shall be Multiple-Family Residential.
2. Landscaping and irrigation shall be provided pursuant to a Landscaping Performance Agreement between the City and the owner, which shall be entered into prior to issuance of a building permit.
3. All landscaping and irrigation shall be maintained in good condition.
4. Prior to issuance of a building permit, a financing mechanism for the improvement of the intersection of Miller Parkway and Scenic Drive intersection and the improvement of Miller Parkway shall be approved by the City and Miller Parkway shall be constructed to the eastern edge of the PUD.
5. A covenant between the City and owner(s) concerning maintenance of drainage easements, improvements and detention facilities shall be reviewed and approved by the City and filed with the Final Plat.

*Attachment No. 4*

6. An updated drawing of the modified west detention/retention basin showing the existing and proposed grading limits for the existing basin, or the location of another detention basin/pond with size and grading limits shall be submitted with the Final Development Plan and shall be reviewed and accepted by the City Engineer.
7. Signage shall be limited to signs proposed in the application consisting of ground and building addressing signs only.
8. Exempt signage shall include signage described in Article VI, Section 6-104 (A)(1),(2),(4),(5),and (7); and, Section 6-104 (B)(5), of the Manhattan Zoning Regulations, as may be amended related political or campaign signs.

**ALTERNATIVES:**

1. Recommend approval of the proposed rezoning of Independence Place PUD from R-3, Multiple-Family Residential District and AO, Airport Overlay District to PUD, Residential Planned Unit Development District and AO, Airport Overlay District, stating the basis for such recommendation, with the conditions listed in the Staff Report.
2. Recommend approval of the proposed rezoning of Independence Place PUD from R-3, Multiple-Family Residential District and AO, Airport Overlay District to PUD, Residential Planned Unit Development District and AO, Airport Overlay 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 Independence Place PUD from R-3, Multiple-Family Residential District and AO, Airport Overlay District to PUD, Residential Planned Unit Development District and AO, Airport Overlay District, based on the findings in the staff report, with the eight conditions recommended by City Administration.

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

**DATE:** October 14, 2010; Revised October 18, 2010/Lot Coverage Table.