



MINUTES
CITY COMMISSION MEETING
TUESDAY, AUGUST 16, 2011
7:00 P.M.

The Regular Meeting of the City Commission was held at 7:00 p.m. in the City Commission Room. Mayor James E. Sherow and Commissioners Loren J. Pepperd, John Matta, Wynn Butler, and Richard B. Jankovich were present. Also present were the City Manager Ron R. Fehr, Assistant City Manager Jason Hilgers, Assistant City Manager Lauren Palmer, City Attorney Bill Frost, City Clerk Gary S. Fees, 9 staff, and approximately 25 interested citizens.

PLEDGE OF ALLEGIANCE

Mayor Sherow led the Commission in the Pledge of Allegiance.

MAYOR'S COMMUNITY SERVICE AWARDS

Mayor Sherow recognized Bill and Marie McConnell, recipients of the Mayor's Community Service Award.

COMMISSIONER COMMENTS

Commissioner Butler requested that the Commission consider scheduling future work sessions to discuss a long-term budget plan for revenues and expenditures based on a four-year cycle, the renewal of the economic development half-cent sales tax, a plan for funding outside agencies, and the funding structure of the Manhattan Public Library.

Commissioner Matta concurred with the items requested by Commissioner Butler. He asked that a priority be placed on the discussion of the economic development half-cent sales tax renewal and to look at how outside agencies and social service agencies would be funded in future budgets.

Commissioner Pepperd agreed with Commissioner Butler's request and stated that the City needs to look at a four-year financial plan that would include temporary notes and future bonding. He also stated that the discussion needs to occur on the half-cent sales tax renewal item.

COMMISSIONER COMMENTS (*CONTINUED*)

Commissioner Jankovich concurred with the items mentioned for future work sessions, with a focus to discuss the economic development half-cent sales tax renewal and to discuss a four- to five-year budget forecast and debt service management.

After additional discussion of the Commission, Mayor Sherow stated that given the topics requested, it would be wise to have four different work sessions. Those items would include discussing long-term budgeting and forecasting, Manhattan Public Library funding and makeup, outside agency funding, and economic development half-cent sales tax item, which should be the first item to be discussed.

Ron Fehr, City Manager, informed the Commission that the items discussed will be incorporated in future work session schedules.

Commissioner Jankovich provided information on a potential credit card system that could be established to create a funding mechanism for the City to help fund outside services and organizations. He informed the community on the Wildcat Creek Watershed Working Group meeting held August 11, 2011, in the City Commission Room and stated that the next meeting of the Working Group would be September 22, 2011, at 7:00 p.m., in the City Commission Room. He then expressed appreciation to the many individuals and to the Konza Rotary Club for coordinating the Water Matters Day event at City Park Pool. He also thanked the Webelos that participated with him at City Hall to learn more about City government and what a Commissioner does.

The Commission and Mayor Sherow thanked City staff and the Manhattan Area Chamber of Commerce and Manhattan Convention and Visitors Bureau staff for their work on the hard hat tours last week at the Flint Hills Discovery Center and events associated with the City Park Pool and Water Matters Day on August 13 and 14, 2011. Mayor Sherow then provided an overview of items mentioned during the Discussion/Briefing Session held prior to the City Commission Legislative Meeting. The Commission received an update on the Flint Hills Discovery Center and developing relationships with the Kaw Nation; received an update during the Manhattan Area Chamber of Commerce Board meeting on military affairs and items related to Fort Riley and plans for a Chamber steering committee for the sales tax initiative; discussed crematoriums and stated that this will be a future item for the Manhattan Urban Area Planning Board; reviewed Commissioner calendars; received an update on the latest Census figures and data; received a memorandum on the Temporary Note Sale and rate received; and discussed upcoming meetings and conferences.

Bernie Hayen, Director of Finance, provided an update on the bids received earlier in the day for the Temporary Note Sale.

COMMISSIONER COMMENTS (*CONTINUED*)

Ron Fehr, City Manager, informed the community that the Kansas Department of Transportation has expressed a willingness to provide 50 percent of the funds needed to improve Shuss Road. He stated that the proposed Shuss Road improvements would be discussed at the September 6, 2011, City Commission meeting. He also provided an update on the latest Census information and on the Temporary Note Sale.

Mayor Sherow announced that the City Commission would not have a Work Session next week and that the next City Commission meeting would be September 6, 2011.

CONSENT AGENDA

(* denotes those items discussed)

MINUTES

The Commission approved the minutes of the Regular City Commission Meeting held Tuesday, August 2, 2011.

CLAIMS REGISTER NO. 2678

The Commission approved Claims Register No. 2678 authorizing and approving the payment of claims from July 26, 2011, to August 9, 2011, in the amount of \$2,614,400.58.

LICENSES

The Commission approved a Fireworks Display License for Purple Power Play on Poyntz, 100 Manhattan Town Center, on September 2, 2011; a 2011 Merchant Guard Agency License for Coastal International Security, Inc., 8198 Terminal Road, Suite 204, Lorton, Virginia; a 2011 Tree Maintenance License for 2 Big Feet Tree Pruning, 405 N. 5th Street; and a 2011 Tree Maintenance License for Kyle's Tree Service, 806 Yuma Street, Apt. 1.

ORDINANCE NO. 6909 – MUNICIPAL FACILITY REVIEW – RILEY COUNTY FLEET VEHICLE PARKING LOT

The Commission found that the public interests to be served by the proposed Municipal Facility for a Riley County fleet vehicle parking lot for Riley County owned vehicles, outweigh the impacts upon legitimate community interests; and approved Ordinance No. 6909 authorizing the proposed Municipal Facility for a Riley County fleet vehicle parking lot for Riley County-owned vehicles, generally located at 500 Humboldt Street, based on the findings in the Staff Report, as recommended by the Planning Board (*See Attachment No. 1*).

CONSENT AGENDA (CONTINUED)

FIRST READING – GAME DAY PARKING – HILLVIEW DRIVE

The Commission approved first reading of an ordinance restricting parking on game days only along Hillview Drive from St. Christopher Circle to College Avenue.

- * **RESOLUTION NO. 081611-A – TEMPORARY NOTE SERIES NO. 2011-05**
Commissioner Jankovich stated that he would abstain from this item due to a conflict of interest.

The Commission approved accepting the best bid for selling the notes and approve Resolution No. 081611-A issuing Temporary Note Series No. 2011-05 in the amount of \$4,005,000.00 to finance the following 11 special assessment and capital projects to be debt financed: *Claflin Road and Seth Child Road (Beechwood Terrace) Intersection Improvements (ST1015); Scenic Meadows Addition, Unit 3, Phase 2, Sanitary Sewer (SS1004) and Water (WA1004) Improvements; Lee Mill Heights Addition, Unit 3, Phase 2; Unit 4, Phase 3, Sanitary Sewer (SS1102), Storm Water (SM1101), Street (ST1101) and Water (WA1102) Improvements; Fire Station #5 (FR775P); Fire Station #3 (FRX75P); Zoo Education Building (SZ0901); and Zoo Gibbon Exhibit (SZ0902).*

RESOLUTION NO. 081611-B – SUPPORT TO REMAIN IN SECOND CONGRESSIONAL DISTRICT

The Commission approved Resolution No. 081611-B in support of maintaining the City of Manhattan and Riley County in the Second Congressional District and forwarding such resolution to the Special Joint Committee of the Kansas Legislature.

CHANGE ORDER NO. 1 – K-18 SANITARY SEWER RELOCATION (SS0907)

The Commission approved Change Order No. 1 for the K-18 Sanitary Sewer Relocation Project, Phase III, (SS0907) resulting in a net increase in the amount of \$81,650.00 (+4.1%) to the contract with Wildcat Construction, of Wichita, Kansas.

CHANGE ORDER NO. 5 – SUNSET ZOO ENTRY AND EDUCATION BUILDING (SZ0901)

The Commission approved Change Order No. 5 for the Sunset Zoo Entry and Education Building, resulting in a net increase in the amount of \$31,800.00 (+.9925%) to the contract with National Builders, Inc., of Wichita, Kansas.

CONSENT AGENDA (CONTINUED)

CONTRACT AMENDMENT NO. 1 – ENGINEERING SERVICES - MCCALL ROAD CONNECTION (ST1014)

The Commission authorized the Mayor and City Clerk to execute Contract Amendment No. 1 with Alfred Benesch and Company, of Manhattan, Kansas, for a reduced scope of improvements and a reduced fee of \$133,050.61, and authorized City Administration to apply for Kansas Department of Transportation's Corridor Management Construction Project program funds for the McCall Road and US-24 improvements (ST1014).

SECOND AMENDMENT – KDHE LOAN – WATER TREATMENT PLANT AND WELLFIELD IMPROVEMENT (SP1009, WA0611)

The Commission authorized the Mayor and City Clerk to execute the second amendment to the loan agreement between the City of Manhattan, Kansas, and the State of Kansas, acting by and through the Kansas Department of Health and Environment, to fund the Water Treatment Plant and Wellfield Improvement Project (SP1009), revising the amortization schedule to reflect a new first repayment date of August 1, 2012, instead of February 1, 2012.

* **AGREEMENT – ENGINEERING SERVICES – BLUEMONT AVENUE CORRIDOR IMPROVEMENT (ST1103)**

Dale Houdeshell, Director of Public Works, provided additional information on the item and responded to questions from the Commission.

The Commission authorized the Mayor and the City Clerk to execute an agreement in an amount not to exceed \$150,000.00 with Bartlett and West, Inc., of Manhattan, Kansas, for the design of the Bluemont Avenue Corridor Improvement Project from North Manhattan Avenue to 11th Street (ST1103, KDOT U-0064-01).

* **AWARD CONTRACTS – FLINT HILLS DISCOVERY CENTER FURNITURE, FIXTURES, AND EQUIPMENT**

Jason Hilgers, Assistant City Manager, and Ron Fehr, City Manager, responded to questions from the Commission and provided additional information on the costs associated with the Furniture, Fixtures, and Equipment (FF&E).

Bob Workman, Director, Flint Hills Discovery Center, responded to questions from the Commission on fundraising efforts and plans to establish a foundation that would create the funding vehicle to raise funds for the Flint Hills Discovery Center.

Jason Hilgers, Assistant City Manager, responded to additional questions from the Commission regarding temporary and permanent financing for the project.

CONSENT AGENDA (CONTINUED)

* **AWARD CONTRACTS – FLINT HILLS DISCOVERY CENTER FURNITURE, FIXTURES, AND EQUIPMENT (CONTINUED)**

Bob Workman, Director, Flint Hills Discovery Center, provided additional information on the FF&E package. He then responded to questions from the Commission on the future plans for food service and the café.

Ron Fehr, City Manager, and Jason Hilgers, Assistant City Manager, responded to questions from the Commission on short-term and long-term financing options for the FF&E package.

The Commission awarded a contract to Galaxie Business Equipment, of Winfield, Kansas, for Furniture, Fixtures, and Equipment packages A (Seating) , B (Stack Chairs), C (Desking, Tables, and Filing Storage), and D (Classroom/Conference Tables) in the total amount of \$81,890.44; awarded a contract to BA Designs, LLC, of Topeka, Kansas, for Furniture, Fixtures, and Equipment package E (Outdoor Furniture) in the amount of \$40,971.57; and authorized City Administration to purchase miscellaneous owner-furnished Furniture, Fixtures, and Equipment items in an amount not to exceed \$315,450.00.

RESOLUTION NO. 081611-C – TEMPORARY NOTES – FLINT HILLS DISCOVERY CENTER FURNITURE, FIXTURES, AND EQUIPMENT

The Commission approved Resolution No. 081611-C authorizing the issuance of temporary notes to finance the Furniture, Fixtures, and Equipment for the Flint Hills Discovery Center.

BOARD APPOINTMENTS

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

Bicycle Advisory Board

Appointment of Joseph Wright, 613 Highland Ridge Drive # 7208, to fill the unexpired Riley County Police Department term of Brian Johnson. Mr. Wright's term begins immediately, and will expire October 31, 2011.

Social Services Advisory Board

Appointment of Robert Smith, 1723 Cedar Crest Drive, to a three-year term. Mr. Smith's term begins immediately, and will expire June 30, 2014.

Special Alcohol Funds Advisory Committee

Re-appointment of Camelia Owens, 730 Allen Road #133, to a three-year term. Ms. Owen's term begins immediately, and will expire June 30, 2014.

CONSENT AGENDA (CONTINUED)

After discussion, Commissioner Jankovich moved to approve the consent agenda. Commissioner Pepperd seconded the motion.

Ron Fehr, City Manager, provided additional information on the Flint Hills Discovery Center Furniture, Fixtures, and Equipment item.

On a roll call vote, motion carried 5-0, with the exception of Item D, ORDINANCE NO. 6909 – MUNICIPAL FACILITY REVIEW – RILEY COUNTY FLEET VEHICLE PARKING LOT, which carried 4-1, with Commissioner Butler voting against the item; and, with the exception of Item F, RESOLUTION NO. 081611-A – TEMPORARY NOTE SERIES NO. 2011-05, which carried 4-0-1, with Commissioner Jankovich abstaining from the item due to a conflict of interest.

GENERAL AGENDA

FIRST READING – REZONE – FIRST UNITED METHODIST CHURCH

Commissioner Pepperd stated that he is a member of the First United Methodist Church and has discussed the project with Lynn Blecha and has spoken with the City Attorney. He stated that he was not prejudice in any way and would participate and vote on the item.

Eric Cattell, Assistant Director for Planning, presented an overview of the item. He then responded to questions from the Commission and provided an aerial map of alleys that have been vacated in the city of Manhattan.

Thaniel Monaco, BG Consultants, informed the Commission that he was assisting the First United Methodist Church and is also a member of the Church. He provided additional background information on the request and asked for the Commission's approval. He then responded to questions from the Commission.

John Lindholm, Chairperson, Board of Trustees, First United Methodist Church, informed the Commission that the Board of Trustees are supportive of the request to improve its campus.

Larry Fox, First United Methodist Church member, provided additional information on the proposed project, the utility challenges, and explained the difficulties with the current site. He stated that the future goal is to connect the two buildings and to make it as safe and efficient as possible and, to be able to keep the Church in the downtown location.

GENERAL AGENDA (CONTINUED)

FIRST READING – REZONE – FIRST UNITED METHODIST CHURCH (CONTINUED)

After discussion, Commissioner Jankovich moved to approve first reading of an ordinance rezoning the First United Methodist Church, consisting of 612 Poyntz Avenue, 121 N. 6th Street, and 621 Humboldt Street, from C-1, Restricted Business District, to C-4, Central Business District, based on the findings in the Staff Report (*See Attachment No. 2*). Commissioner Matta seconded the motion. On a roll call vote, motion carried 5-0.

DEVELOPMENT AGREEMENT – FIRST UNITED METHODIST CHURCH – SANITARY SEWER (SS1118) AND STORM DRAINAGE (SM1108) IMPROVEMENTS

Eric Cattell, Assistant Director for Planning, presented an overview of the item.

After discussion, Commissioner Jankovich moved to approve the concept to vacate a portion of the alley and authorize the Mayor and City Clerk to execute the Development Agreement between the City and First United Methodist Church. Commissioner Butler seconded the motion. On a roll call vote, motion carried 5-0.

FIRST READING - AMEND FINAL DEVELOPMENT PLAN - LOT 1, PENNY'S CONCRETE INDUSTRIAL PUD; REZONE - LOT 36, EUREKA ADDITION, UNIT TWO

Eric Cattell, Assistant Director for Planning, presented the item. He then responded to questions from the Commission regarding the Planned Unit Development, landscaping and enforcement measures, and presented an aerial view of the K-18 Highway Re-alignment and proposed frontage road.

Dale Houdeshell, Director of Public Works, responded to questions from the Commission on the ownership and maintenance of the frontage road near the development.

Ron Fehr, City Manager, provided additional clarification on the item.

Fred Gibbs, BG Consultants, informed the Commission that their firm worked with Penny's Concrete on the proposal and responded to questions from the Commission on the Industrial Planned Unit Development costs.

After discussion, Commissioner Jankovich moved to approve first reading of an ordinance amending the Final Development Plan of Penny's Concrete Industrial PUD and Ordinance No. 6730, and rezoning Lot 36, Eureka Addition, Unit Two, generally located at 2633 Eureka Terrace, from C-6, Heavy Commercial District with AO, Airport Overlay District, to PUD, Industrial Planned Unit Development District with AO, Airport Overlay District, based on the findings in the Staff Report (*See Attachment No. 3*) with the one condition of approval recommended by the Manhattan Urban Area Planning Board. Commissioner Matta seconded the motion. On a roll call vote, motion carried 5-0.

GENERAL AGENDA (CONTINUED)

2012 BUDGET; 2012-2017 CAPITAL IMPROVEMENTS; INCREASE UTILITY RATES; IAFF LOCAL 2275 MEMORANDUM OF AGREEMENT; SALARY ORDINANCE

Lauren Palmer, Assistant City Manager, presented the 2012 proposed salary adjustments and an overview of the proposed changes in the IAFF Local 2275 Memorandum of Agreement. She then responded to questions from the Commission on the item.

Tim Davenport, 3004 Pecanwood Drive, President, IAFF Local 2275 Union, informed the Commission that the Union and the City were able to come to a compromise. He thanked the Commission, Fire Chief Jerry Snyder, Union members, and City staff for their efforts.

After discussion and comments of the Commission, Commissioner Jankovich moved to approve Resolution No. 081611-D, adopting changes within the Memorandum of Agreement with Local 2275 of the International Association of Firefighters, and approve first reading of the 2012 Salary Ordinance to establish a new range of salaries for City employees. Commissioner Pepperd seconded the motion. On a roll call vote, motion carried 5-0.

Emily Campbell, Budget Officer, presented the proposed 2012 City Budget, proposed 2012 Budget snapshots of Property Tax Funds, proposed 2012 Capital Improvements Program, property tax mill levies, and property tax impact to a homeowner.

Ron Fehr, City Manager, responded to questions from the Commission and stated that utilities will be included as part of the four year budget forecast.

After discussion and comments of the Commission, Commissioner Jankovich moved to approve Ordinance No. 6910 adopting the 2012 City Budget; Resolution No. 081611-E adopting the 2012-2017 Capital Improvements Program; Ordinance No. 6911 increasing water rates and tap fees effective January 1, 2012; Ordinance No. 6912 increasing wastewater rates, effective January 1, 2012; and Charter Ordinance No. 50 increasing stormwater rates effective January 1, 2012. Commissioner Pepperd seconded the motion. On a roll call vote, motion carried 5-0.

Mayor Sherow reminded the community that the next City Commission meeting would be Tuesday, September 6, 2011.

ADJOURNMENT

At 9:00 p.m., the Commission adjourned.



Gary S. Fees, MMC, City Clerk

**STAFF REPORT
STATE OR MUNICIPAL FACILITY REVIEW**

APPLICANT: The Board of County Commissioners, Riley County.

ADDRESS: 110 Courthouse Plaza, Manhattan, KS 66502.

LOCATION: Lot 397, Ward 2, generally located at 500 Humboldt Street, which is on the northwest corner of Humboldt Street and N. 5th Street.

AREA: Approximately 7,500 square feet.

DATE OF PUBLIC NOTICE PUBLICATION: Monday, June 27, 2011.

DATE OF PUBLIC HEARING: PLANNING BOARD: Monday, July 18, 2011.

CITY COMMISSION: Tuesday, August 2, 2011.

At the conclusion of the hearing, the Manhattan Urban Area Planning Board shall forward its recommendation to the Governing Body. Such recommendation shall include all factors and reasons the Board relies upon to support such recommendation. In arriving at such recommendation, the Planning Board shall balance the public interests to be served by the construction or expansion of the utility or facility, as opposed to the impact upon interests intended to be protected by the Zoning Regulations. In balancing such interests, the Planning Board shall consider factors, such as:

Municipal Facility Process

The Municipal Facility Review process is outlined in Section 3-412 of the Manhattan Zoning Regulations (attached), which indicates, in part, that: “Any public utility, or facility, owned and operated by either the State or a Municipality is hereby authorized as a permitted use in any zoning district, subject to the remaining provisions of this section.”

If a utility or facility is specifically listed in a zoning district as a permitted or conditional use, the municipality can follow the requirements set out in Article IV, District Regulations, or follow the provisions of Section 3-412. If the utility or facility is not set out in a zoning district in which it is proposed, the utility or facility must follow the provisions of Section 3-412.

Attachment No. 1

The process requires that both the Manhattan Urban Area Planning Board and the City Commission hold public hearings on the proposal. This process is not a rezoning action, but a process whereby the Planning Board and the City Commission consider the proposal by balancing the public interests to be served by a proposed Municipal Utility or Facility, as opposed to the impact upon public interests intended to be protected by the Zoning Regulations. In performing this balancing test and evaluating a proposed facility, the Planning Board and City Commission must consider the factors listed under the Staff Report headings.

The City Commission is not bound by the recommendations of the Planning Board, nor is it obligated to return the matter to the Planning Board for reconsideration, unless the City Commission chooses to do so. If the City Commission approves the request, it does so by adoption of an ordinance, following a public hearing.

EXISTING USE: Vacant lot. The proposed use is located in the C-4, Central Business District (regulations attached). No accessory off-street parking facilities are required in the C-4 District, meaning there is no minimum number of off-street parking spaces required in C-4. However, parking facilities that are provided are required to meet applicable design standards such as configuration, landscaping, surfacing, lighting, and other standards (Section 7-102 (E) Design, attached).

PROPOSED USE: Municipal facility for a Riley County fleet vehicle concrete off-street parking lot with curb and gutter for 16 off-street parking spaces for Riley County owned vehicles only.

One way access to the proposed parking lot is from a proposed entrance only 14 foot wide curb cut off Humboldt Street. Sixteen 90 degree parking spaces are on the east side of the parking lot. Vehicles exit the parking lot to the alley from a 17 foot wide exit only curb cut onto a concrete paved two way 15 foot wide public alley. Access from the alley to the propose parking lot is prohibited. The entrance and exits will be signed accordingly (see attached site plan).

The minimum landscaping requirements for off-street parking lots requires five percent of the paved area be landscaped and one tree per 5,000 square feet of paved area, or each fraction thereof of 2,500 square feet. The paved portion of the parking lot is 6,318.25 square feet in area. Landscape space is 1,181.75 square feet in area, or 18.7 percent of the paved parking lot area. Landscape space along the eastern and southern edges of the parking lot, N. 5th Street and Humboldt Street frontages, consists of creeping sedum ground cover and one proposed tree along N. 5th Street at the approximate midpoint of the parking lot's street frontage. A approximate three foot wide grass strip is along the western side yard of the parking lot.

Attachment No. 1

Two on-street parking spaces along the Humboldt Street frontage of the proposed parking lot will be removed and the curb will be painted yellow indicating no parking.

No parking lot lights are proposed or required.

Screening is not required.

The proposed parking lot will drain to the alley and Humboldt Street.

PHYSICAL AND ENVIRONMENTAL CHARACTERISTICS: Lot 397 is a flat tract of land, which is grass covered. Lot 397 is a Ward lot platted in the late 1800's and measures approximately 50 feet in width along Humboldt Street by 150 feet in depth along in N. 5th Street. Lot 397 is a corner lot with front lot lines along Humboldt Street and N. 5th Street. The northern lot line abuts a public alley and is a side lot line. The western side lot line abuts 510 Humboldt Street, which is developed with an apartment building and a sidewalk adjoining the proposed grass strip in the Riley County parking lot. The sidewalk connects the apartment building's off street parking and the building's front on Humboldt Street. There are no existing curb cuts along either of Lot 397's street frontages. Existing access to Lot 397 is to a former gravel parking area off the public alley. There are existing sidewalks along both of Lot 397's street frontages. Drainage is to the adjoining rights-of-way.

- 1. THE NATURE AND SCOPE OF THE MUNICIPALITY OR STATE AGENCY:**
The nature and scope of the municipality is Riley County, a municipality of the State of Kansas.
- 2. THE FUNCTION OF THE UTILITY OR FACILITY:** The function of the proposed facility is a Riley County fleet vehicle parking lot, which will create 16 off-street parking spaces for Riley County owned vehicles only.
- 3. THE EXTENT OF THE PUBLIC INTEREST TO BE SERVED BY THE UTILITY OR FACILITY:** The extent of the public interest to be served by the facility is described in the applicant's written Supplemental Application Information (attached). The applicant states, "The purpose of the facility is to increase the availability of public parking in the existing courthouse complex lot immediately west of the Riley County Office Building. This will better serve the citizens and address concerns from the public that they cannot find parking because fleet vehicles take up those spaces."

4. THE EFFECT THAT REGULATION OF THE CONSTRUCTION, OR EXPANSION, EITHER BY THE IMPOSITION OF REQUIREMENTS NECESSARY TO MITIGATE IMPACTS OR BY A COMPLETE DENIAL, WILL HAVE UPON THE MUNICIPALITY'S, OR STATE AGENCY'S, ABILITY TO EFFICIENTLY, ECONOMICALLY AND PRUDENTLY MEET THE PUBLIC INTERESTS THEY ARE SERVING: Denial of the request will have a negative impact upon Riley County's public interest to efficiently, economically and prudently improve their ability to provide more public off-street parking immediately adjacent to the west of the Riley County Office building. The permitted and conditional use lists of the C-4 District do not include municipally owned and operated parking lots. Location requirements for parking lots impose limitations on the applicant's ability to provide public off-street parking. Vision triangles and parking lot design standards place requirements on the Riley County's ability to provide off-street parking for the public. These requirements, however, have minimal impact on the public as described below.

The effect of the Manhattan Zoning Regulations on the proposed facility is that the municipally owned and operated off-street parking lot would not be allowed in the C-4 District because (1) municipal off-street parking lots are not listed as a permitted or conditional use in the C-4 District, and (2) the proposed off-street parking lot is not an accessory use as defined in the Zoning Regulations.

While the Design Standards indicate off-street parking lots may be located in the same zoning district and within 600 feet as the use served, municipal parking lots are not listed as a permitted or conditional use, and the proposed off-street parking lot cannot be considered an accessory use because it is not on the same zoning lot as the Riley County Office building. The more restrictive requirements apply when there is a contradicting regulation, which means the Zoning Regulations would otherwise prohibit the proposed off-street parking lot without approval of a Municipal Facility.

There are three vision triangles within the proposed off-street parking lot including a 15 foot triangle at Humboldt and N. 5th Street intersection, a ten foot triangle at the alley and N. 5th Street intersection and a ten foot triangle at the private drive and sidewalk on Humboldt Street. The regulations would not allow two of the proposed parking spaces within vision triangles in the southeast and northeast corners of the proposed off-street parking lot. Complete denial of the off-street parking lot based on vision triangles would not allow for the efficient provision for Riley County fleet vehicle parking and would not be in the public interest as additional parking for the public would not become available in the existing off-street parking lot to the west of the Riley County Office building.

Attachment No. 1

Vehicle encroachment in the vision triangles will occur with minimal impact on vehicles and pedestrian traffic in street and alley rights-of-way. The minimum ten foot vision triangle in the northeast corner of the off-street parking lot should not impact exiting movements from the alley to N. 5th Street. Any vehicle parked in the northern most parking space should not interfere with driver or bicyclist views of vehicles in N. 5th Street and pedestrians along the sidewalk as only a small part of the vehicles front end in the parking space will encroach in the vision triangle. In addition, the northern parking space is set back further, or approximately two feet, than the other parking spaces to the south. The 15 foot vision triangle at the N. 5th Street and Humboldt Street intersection is maintained with minimal encroachment from a vehicle's front end parked in the southern most parking space. Minimal impact on drivers and bicyclists' views is due to the proposed setbacks and removal of two parking spaces on Humboldt Street, which will provide for increased views for turning movements at the intersection of N. 5th Street and Humboldt Street. There is no encroachment in the ten foot vision triangle at the driveway intersection off Humboldt Street.

The design of the proposed parking lot is subject to the City's Parking Lot Configuration Standards. Minimum parking space width and depth is met. Backing aisle depth is 20 feet for the northern parking space and 22 feet in depth for the other 15 parking spaces. Minimum aisle depth is 26 feet. Driving aisle depth could be met, however, if parking space setbacks were reduced to zero feet along N. 5th Street, or to the edge of the sidewalk. This would also eliminate proposed landscape space and further extend the northern and southern parking spaces into vision triangles and impact motorists and pedestrian safety. As proposed, the driving aisle depth should be adequate to serve Riley County fleet vehicles only.

5. **THE IMPACT THAT CONSTRUCTION OR EXPANSION OF THE UTILITY OR FACILITY WILL HAVE UPON THE LEGITIMATE INTERESTS OF THAT PORTION OF THE COMMUNITY IN WHICH IT IS PROPOSED TO BE LOCATED:** The proposed construction of the facility is expected to have minimal impact upon the legitimate interests of that portion of the community in which the proposed Riley County fleet vehicle only off-street parking lot is proposed. Two on-street parking spaces are removed along Humboldt Street, which creates a safer turning movement from N. 5th Street onto Humboldt Street as views along Humboldt Street to the west are improved. The proposed configuration, setbacks and landscaping are not inconsistent with other off-street parking lots in the immediate neighborhood in which the proposed facility will be located.

Attachment No. 1

The proposed off-street parking lot will accommodate off-street for 16 Riley County fleet vehicles only, which are currently stored in the Riley County Office Building's off-street parking lot to the southeast of the Humboldt Street and N. 5th Street intersection. The relocation of the fleet vehicles to the proposed off-street parking lot will accommodate 16 new parking spaces for the general public, which use the municipal services at the Riley County offices. Two on-street public parking spaces along the Humboldt Street, which are south of the proposed off-street parking lot, will be removed. The result is a net gain of 14 public off-street parking spaces in the immediate neighborhood.

There is no minimum front, side or rear yard setback in the C-4 District. The proposed parking lot's front yard setback is approximately three feet from the front property line along Humboldt Street and six feet from the front property line along N. 5th Street, with side yard setbacks of three feet to the west and generally at zero feet from the side property line along the alley. The southern, eastern and western setback spaces are proposed with landscaping consisting of either creeping sedum along the eastern and southern frontages and turf along the eastern side yard.

East of the proposed parking lot is N. 5th Street and a City municipally owned and operated off-street parking lot with parking spaces located generally at the front lot lines along N. 5th Street and Humboldt Street and at the opposite side lot lines. To the southeast is an existing Riley County off-street parking lot serving Riley County government facilities, with off-street parking spaces at the front lot line along Humboldt Street and N. 5th Street. To the immediate west is a private off-street parking lot, which adjoins the alley serving the apartment building. To the north is an existing building and off-street parking lot to the northeast of the building. Other off-street parking lots in the immediate area are private with similar parking setbacks from streets and alleys.

The proposed parking lot is within the environs of the following historic properties: Downtown Manhattan Historic District, Riley County Courthouse and Manhattan Carnegie Library. The Manhattan Historic resources Board reviewed the project at its June 27, 2011, meeting and found the project will not encroach upon, damage or destroy and listed historic property or its environs. The State Historic Preservation Officer reviewed the project and made the same finding (letters attached).

Proposed curb cuts to the off-street parking lot and the removal of on-street parking will not adversely affect the adjoining street rights-of-ways.

6. IF THE OWNER OF THE UTILITY OR FACILITY IS THE CITY OF MANHATTAN, AND IF THE FACILITY OR UTILITY IS OF A TYPE EMBRACED WITHIN THE COMPREHENSIVE PLAN, WHETHER OR NOT IT IS IN CONFORMITY WITH THAT PLAN: Riley County is the owner of the proposed Riley County fleet vehicle parking lot. The site is shown on the Downtown Core Neighborhoods Future Land Use map as Central Core District. Southeast of the proposed parking lot is the Riley County Office Building and Courthouse facilities, which are shown as public/semi-public. The Comprehensive Plan, with respect to the Central Core District, does not address off-street parking lots. However, the proposed parking lot is in close proximity to the Riley County Office Building and Courthouse facilities, which are designated as public/semi public. The proposed parking lot will serve the public/semi public designation embraced within the Plan. The proposed municipally owned and operated facility is in general conformance with the Plan.

7. OTHER FACTORS AS THE PLANNING BOARD DEEMS APPROPRIATE AND RELEVANT: If the Planning Board believes there are other factors to consider, the Board should determine those factors it deems appropriate and relevant and clearly articulate the factors.

STAFF RECOMMENDATION: City Administration recommends approval of a proposed Municipal facility for a Riley County fleet vehicle parking lot for Riley County owned vehicles at 500 Humboldt Street.

The Planning Board shall not recommend approval of the request unless it determines, by a preponderance of the evidence, that the public interests to be served by the construction or expansion of the utility or facility outweigh any impact upon legitimate community interests, as such impact is mitigated by any requirements of the Planning Board.

If the Planning Board recommends approval, they shall also recommend any requirements or conditions they deem necessary to mitigate impacts caused by such use. Such requirements or conditions may include, but are not limited to, any bulk, or other requirements, which would have otherwise been applicable within the zoning district in which the proposed use is to be placed.

ALTERNATIVES

It appears the Planning Board has the following alternatives concerning the issue at hand. The Board may:

1. Hold a public hearing on the proposal and, following the hearing, recommend approval of a proposed Municipal facility for a Riley County fleet vehicle parking lot for Riley County owned vehicles at 500 Humboldt Street, based on the findings in the staff report, as recommended by City Administration.
2. Hold a public hearing on the proposal and, following the hearing, recommend denial of the proposed Municipal facility for a Riley County fleet vehicle parking lot for Riley County owned vehicles at 500 Humboldt Street, for specifically stated reasons.
3. Hold a public hearing on the proposal and, following the hearing, modify the site plan and/or conditions of approval, to meet the needs as perceived by the Planning Board, and establish such conditions, if any, as deemed necessary to mitigate any impacts created by the proposed Municipal facility for a Riley County fleet vehicle parking lot for Riley County owned vehicles at 500 Humboldt Street.
4. Table the public hearing of a proposed Municipal facility for a Riley County fleet vehicle parking lot for Riley County owned vehicles at 500 Humboldt Street, for specifically stated reasons and provide further direction to City Administration.

RECOMMENDATION

City Administration recommends that the Planning Board:

1. Hold a public hearing on the proposed Municipal facility for a Riley County fleet vehicle parking lot for Riley County owned vehicles;
2. Determine by a preponderance of the evidence, that the public interests to be served by the proposed Municipal facility for a Riley County fleet vehicle parking lot for Riley County owned vehicles at 500 Humboldt Street, outweigh the impacts upon the legitimate community interests, as mitigated by requirements of the Planning Board; and,

Attachment No. 1

3. Recommend approval of the proposed Municipal facility for a Riley County fleet vehicle parking lot for Riley County owned vehicles at 500 Humboldt Street, as recommended by City Administration. This recommendation is based on the findings in the Staff Report.

POSSIBLE MOTION

The Manhattan Urban Area Planning Board finds that by a preponderance of the evidence, the public interests to be served by the proposed Municipal Facility, outweighs the impacts upon the legitimate community interests and recommends approval of a proposed Municipal facility for a Riley County fleet vehicle parking lot for Riley County owned vehicles at 500 Humboldt Street, based on the findings in the Staff Report, as recommended by City Administration.

PREPARED BY: Steve Zilkie, AICP, Senior Planner

DATE: July 12, 2011

STAFF REPORT

ON AN APPLICATION TO REZONE PROPERTY

FROM: C-1, Restricted Business District

TO: C-4, Central Business District

OWNER/APPLICANT: The First United Methodist Church of Manhattan, Kansas, Inc.
John Lindholm, Chairperson, Board of Trustees

ADDRESS: 612 Poyntz Avenue, 121 N. 6th Street, and 621 Humboldt Street

LOCATION: Lots 421 – 425; the East 40 feet of Lot 426; Lots 429 – 433; and portions of Lots 434, 435 and 436, all in Ward 2.

AREA: 90,168 square feet (2.07 acres)

DATE OF PUBLIC NOTICE PUBLICATION: Monday, May 30, 2011

DATE OF PUBLIC HEARING: PLANNING BOARD: Monday, June 20, 2011 (Note: Public Hearing tabled on June 20, 2011, to July 7, 2011.)

CITY COMMISSION: Tuesday, August 2, 2011.

THIRTEEN MATTERS TO BE CONSIDERED WHEN REZONING

- 1. EXISTING USE:** First United Methodist Church sanctuary, education building and Alan Lee Center.
- 2. PHYSICAL AND ENVIRONMENTAL CHARACTERISTICS:** The site consists of two (2) corner lots that are separated by the alley platted in the Ward District. The northern corner lot has 300 feet of frontage along Humboldt Street and 150 feet of frontage along N. 6th Street. The southern corner lot has 290 feet of frontage along Poyntz Avenue and 150 feet of frontage along N. 6th Street. The site consists of all the First United Methodist Church's properties located west of N. 6th Street. The approximate 3,400 square foot one-story, Allen Lee Center is located along Humboldt Street at the northwest corner of the northern lot. The three-story Education Building, which has a footprint of approximately 6,550 square feet, is located at the corner of Humboldt Street and N. 6th Street. A fenced playground associated with the daycare in

Attachment No. 2

the Education Building is located at the corner of Humboldt Street and N. 6th Street. The three-story church sanctuary is located at the corner of Poyntz Avenue and S. 6th Street. The sanctuary is approximately 12,400 square feet in area. The site has existing off-street parking lots and extensive landscape beds and lawn areas. Existing ground signs associated with the church are located to the south of the sanctuary building along Poyntz Avenue and at the corner of Poyntz Avenue and N. 6th Street.

The site is relatively flat and drains to the alley between the two corner lots and towards the adjacent streets. A majority of the site is located within the Zone X, 0.2% Annual Chance Flood Plain (i.e. 500 year Flood Plain). This area is protected from the 1% annual change flood (i.e. 100 year Flood) by the City's levee system. Development within the Zone X, 0.2% Annual Chance Flood Plain is not regulated.

3. SURROUNDING LAND USE AND ZONING:

- A. NORTH:** Humboldt Street, business and professional offices, a bank with a drive-thru window, single-family, two-family and multiple-family residential uses, Woodrow Wilson Elementary School; C-4, Central Business District, C-1, Restricted Business District, R-M/TNO, Four-Family Residential District and Traditional Neighborhood Overlay District.
- B. SOUTH:** Poyntz Avenue, Manhattan Public Library and parking lot, the Episcopal Church, and the Colony Square office building ; C-1 District and C-4 District.
- C. EAST:** N. 6th Street, property and buildings owned by the First United Methodist Church, bank with drive-thru window, and business and professional offices, C-4 District.
- D. WEST:** Juliette Avenue, business and professional offices, First Congregational Church of Christ, single-family, two-family and multiple-family residential uses; C-1 District, R-M/TNO District

- 4. GENERAL NEIGHBORHOOD CHARACTER:** The site is located along Poyntz Avenue, N. 6th Street and Humboldt Street. Business and professional offices, financial institutions, and churches characterize the neighborhood character to the east, north and west. Directly to the south, across Poyntz Avenue the neighborhood is characterized by the Manhattan Public Library, the Episcopal Church, and the Colony Square office building to the southeast. The area to the north and northwest of the site, across N. Juliette Avenue and Leavenworth Street consists of a mixture of single-family, two-family, and multiple-family dwellings units. The C-4 District is located to the north and east of the site, between Humboldt and Leavenworth Streets and extending to N. Juliette Avenue. The site is generally at the western edge of the Central Business District.

5. SUITABILITY OF SITE FOR USES UNDER CURRENT ZONING: According to the First United Methodist Church website, the sanctuary was built in 1926; the Education Building was built in 1957; and the Alan Lee Building was purchased in 2002. The C-1 District has a limited number of permitted uses that include business and professional offices, religious uses, governmental buildings, banks and financial institutions and mortuaries and funeral homes. The existing church uses are permitted in the C-1 District. The Alan Lee Center encroaches into the required twenty-five (25) foot front yard setback along Humboldt Street. The sanctuary encroaches into the minimum required eight (8) foot side yard setback of the corner lot (along the alley) and within the required 25 foot front yard setback along Poyntz Avenue (23.8 feet). These conditions were created prior to the current setback requirements of the C-1 District, and are considered a legally nonconforming condition.

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

The site has been used as a church since 1926. The accessory uses of the Education Building were established in 1957 and Alan Lee Center in 2002. Rezoning the site from the C-1 District to the C-4, Central Business District will be compatible with the surrounding properties. The current C-4 District is located immediately to the north of the site across Humboldt Street and to the east across N. 6th Street. The area to the immediate west and south are properties zoned C-1 District, which provide a transitional area between the proposed the C-4 District and the nearby residential properties.

The applicant has proposed to replat the site into two (2) lots and request the City to vacate the alley that dissects the site and to dedicate a new north-south alley segment that would enter onto Humboldt Street, approximately 190 feet west of the N. 6th Street. The City Commission will consider a development agreement in the near future, between the Church and the City, requiring the Church to relocate the existing utilities, address drainage and construct the new rerouted alley, prior to the City vacating the existing alley. After the Agreement is completed, the replat application will be considered by the Planning Board.

The proposed rezoning to the C-4 District and the replat is in preparation for a proposed building addition that would connect the Sanctuary and the Education Building across the existing alley. The C-4 District has less restrictive setbacks, lot coverage and off-street parking requirements than the C-1 District, which will better accommodate the applicant's future development plans for the Church, compared to the current zoning district. By rezoning the site to the C-4 District, all of the church's property, including the property to the east of N. 6th Street, will be in the same zoning district.

The subject site is within the 500-foot environs of the of Downtown Manhattan Historic District, Manhattan Carnegie Library, Riley County Courthouse, First Congregational Church, Houston & Pierre Streets Residential Historic District, Mattie M. Elliot House and E.A. & Ura Wharton House. On June 27, 2011, the Historic Resources Board (HRB) conducted its environs review and found that the proposed rezoning and the proposed replat involving vacation and rerouting of the alley, will not encroach upon, damage or destroy any listed historic property or its environs. The HRB's finding and the proposed rezoning and Final Plat have been forwarded to the State Historic Preservation Officer (SHPO) for its review, and it is anticipated that the City will receive the SHPO's determination prior to the Planning Board meeting on July 7, 2011.

7. CONFORMANCE WITH COMPREHENSIVE PLAN:

The site is shown on the Downtown Core Neighborhoods Future Land Use Map as "Public/Semi-Public", which is a reflection of the existing use as a church and its associated activities. The Comprehensive Plan recommends the Central Core District commercial classification for the properties located to the east, north and west of the site (*see Future land Use Map*). The Central Core District designation contains the community's major downtown shopping facilities, professional and governmental offices, and public buildings. The proposed C-4, Central Business District is the correct classification to implement the Central Core District designation and matches the current zoning these surrounding properties.

The Downtown Tomorrow Plan, which was adopted in April 2000 as an amendment of the Comprehensive Plan, identifies the site as the west edge of the retail/office/government core for the Poyntz Avenue Corridor. The proposed rezoning of the site to the C-4 District is in conformance with the Downtown Tomorrow Plan and the Comprehensive Plan.

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

According to the First United Methodist Church website, the sanctuary was built in 1926, with a major addition to the structure towards east was done in 1998. The Education Building was built in 1957. The Alan Lee Building was purchased in 2002.

1925-1954: B, Second Dwelling House District
1954-1969: D, Central Business District
1969-Present: C-1, Restricted Business 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 C-4 District is the primary downtown commercial core of the community and is designed to provide for a broad range of retail shopping facilities, services, and cultural activities including churches (*C-4 District regulations attached*). The proposed rezoning is consistent with the intent and purpose of the Zoning Ordinance.

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 health, safety and welfare that denial of the request would accomplish. The applicant proposes to rezone the site so that all of their property is in the same C-4, Central Business District and to be able to construct future building additions on the site with less restrictive setbacks and parking. Denying the rezoning request might pose a hardship on the applicant.

11. ADEQUACY OF PUBLIC FACILITIES AND SERVICES:

Adequate public streets, sanitary sewer and water are available to serve the site. However, the Church's proposal to have the City vacate the eastern portion of the alley will necessitate the Church to reconfigure the alley, as proposed, and relocate the existing sanitary sewer and private utilities located in the alley, and also address storm water runoff issues caused by the reconfiguration of the block. There are existing public sidewalks along both sides of all the streets that abut the site.

12. OTHER APPLICABLE FACTORS: None

13. STAFF COMMENTS: City Administration recommends approval of the proposed rezoning of the First United Methodist Church at 612 Poyntz Avenue, 121 N. 6th Street, and 621 Humboldt Street, from C-1, Restricted Business District, to C-4, Central Business District, based on the findings in the Staff Report.

ALTERNATIVES:

1. Recommend approval of the proposed rezoning of First United Methodist Church at 612 Poyntz Avenue, 121 N. 6th Street, and 621 Humboldt Street, from C-1, Restricted Business District, to C-4, Central Business District, based on the findings in the Staff Report.

Attachment No. 2

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 First United Methodist Church at 612 Poyntz Avenue, 121 N. 6th Street, and 621 Humboldt Street, from C-1, Restricted Business District, to C-4, Central Business District, based on the findings in the Staff Report .

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

DATE: June 28, 2011

STAFF REPORT

AN AMENDMENT OF ORDINANCE NO. 6730 AND THE APPROVED FINAL DEVELOPMENT PLAN OF THE PENNY'S CONCRETE INDUSTRIAL PUD AND THE REZONING OF LOT 36, EUREKA ADDITION, UNIT TWO, FROM C-6/AO TO PUD /AO. LOT 36 WILL BE COMBINED WITH PENNY'S PUD TO EXPAND THE CONCRETE BATCH PLANT OPERATIONS. THE AMENDMENT IS PROPOSED AS A FINAL DEVELOPMENT PLAN AND FINAL PLAT.

BACKGROUND

APPLICANT: Penny's Concrete – Chris Rickard.

OWNERS: Penny's Concrete, Inc., a Kansas Corporation; and SSF Development, LLC, a Kansas Limited Liability Company.

ADDRESSES: 234000 W. 82nd Street, Shawnee, KS, 66227; 1213 Hylton Heights, Manhattan, KS, 66502.

LOCATION: Penny's Concrete is generally located 525 feet south of the intersection of Eureka Drive and Eureka Terrace, along the east side of Eureka Terrace. Lot 36 is located adjacent to and south of Penny's Concrete, and is generally located 1,050 feet south of the intersection of Eureka Drive and Eureka Terrace, along the east side of Eureka Terrace.

AREA: Total Acreage: 10.089 acres consisting of the existing Penny's PUD site (6.642 acres) and Lot 36, Eureka Addition, Unit Two, to be rezoned to PUD (3.447 acres).

PUBLICATION DATE OF PUBLIC NOTICE: Monday, July 11, 2011.

DATE OF PUBLIC HEARING, PLANNING BOARD: Monday, August 1, 2011.

CITY COMMISSION FIRST READING OF AN ORDINANCE: Tuesday, August 16, 2011.

EXISTING PUD:

Ordinance

Penny's Concrete Industrial Planned Unit Development and Ordinance No. 6730, dated October 21, 2008 (*attached*). The conditions of approval are:

Attachment No. 3

1. Permitted uses shall include a permanent Concrete Batch Plant, a portable Concrete Batch Plant, the production and storage of concrete landscaping blocks, and a vehicle and equipment maintenance shop.
2. Perimeter and front yard landscaping and screening shall be provided as proposed.
3. 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.
4. All landscaping and irrigation shall be maintained in good condition.
5. Light poles shall be provided as described in the application documents and shall be full cutoff design. Building lighting shall not cast direct light onto public or private streets or adjacent property and shall be full cut-off design.
6. Signage shall be provided as proposed to include one ground entry sign.
7. Exempt signage shall include signage described in Article VI, Section 6-104 (A)(1),(2),(4),(5),(7) and (8); and Section 6-104 (B)(2), of the Manhattan Zoning Regulations. Temporary sales aids and portable signs, as described in Article VI, Signs, of the Manhattan Zoning Regulations, shall be prohibited.
8. All trash enclosures shall be constructed of masonry walls with gates.
9. Dust control mitigation shall be provided as proposed for material storage areas and conveyors.

Permitted Uses

Permitted Uses in the PUD are set out above under Condition 1.

Permitted and Conditional Uses of Lot 36 include: All of the Permitted and Conditional Uses of the C-6, Heavy Commercial District, This district is designed to provide for commercial uses which allow for the sale and/or service of heavy equipment or products, such as, but not limited to, large agricultural equipment, construction and heavy equipment sales, mobile homes, and other sales. The Permitted and Conditional Uses of the C-5, Highway Service Commercial District, are a Conditional Use in the C-6 District. Lot 36 is also within the AO, Airport Overlay District, and subject to the restrictions of the AO District (*attached*).

EXISTING USE

The existing use of the PUD is a permanent Concrete Batch Plant, a portable Concrete Batch Plant, the production and storage of concrete landscaping blocks for retaining walls, office, other accessory uses such as landscaping, lighting, signage, and a future shop. Both plants may operate on the site if concrete demand requires both plants to operate concurrently, or the portable plant may be relocated if demand for a remote site is needed. The site is subject to Kansas Department of Health and Environment (KDHE) air and water quality regulations. The property will be owned and maintained by Penny's Concrete Inc.

The applicant indicated with the existing PUD in 2008 that there would be ten employees initially consisting of drivers and plant operators. Hours of operation would be from 6 a.m. to 7 p.m., with other hours possible depending on concrete demand. For example, in summer months, deliveries may be made to sites at 3 a.m. due to hot weather. On an average day, from 30 to 46 trucks may be in and out of the PUD.

DESCRIPTION OF PROPOSED AMENDMENT AND REZONING

AMEND Ordinance No. 6730 and the Final Development Plan of the Penny's Concrete Industrial Planned Unit Development (PUD) for a proposed expansion of the PUD to add existing Lot 36; and, the **REZONING** of one tract of land: Lot 36, an approximate three and one-half (3.5) acre tract, generally located south of the PUD. Lot 36 will be combined with the existing PUD. The amendment is proposed as a Final Development Plan and a separate Final Plat (separate application).

The existing Penny's site will be replatted to be known as Lot 2, Penny's Addition, Unit Two. The proposed rezoning/expansion site will be known as Lot 3, Penny's Addition, Unit Two.

Present zoning district classification is: Lot 36: C-6, Heavy Commercial District with AO, Airport Overlay District.

The proposed change is to Lot 36: PUD, Industrial Planned Unit Development District with AO, Airport Overlay District.

Existing Batch Plants and Buildings and Proposed Batch Plant

The approved Final Development Plan drawings of the existing Penny's Concrete PUD are attached.

The expanded PUD will have up to three concrete batch plants, one of which is an existing fixed structure inside a shell building and is a permanent plant (Plant #1) on the site, the second plant (Plant # 2) is an existing portable plant, which may be relocated as needed off-site, or may be operational in the PUD, to meet concrete demand. The existing facilities are on proposed Lot 2. The third portable plant (Plant #3) may be located to the south on proposed Lot 3 and may be placed on the site depending on demand for concrete. For the immediate future, the area around Plant #3 will be for aggregate storage and parking with access to the existing activities on proposed lot 2.

Attached to the existing permanent batch plant is an office and shop. A separate future shop is shown to the north of the permanent batch plant.

An above ground diesel fuel station and a wash-out pit are located in the northern part of the site, with aggregate storage generally in the southeastern part of the site. The washout pit is for cleaning of concrete trucks into sedimentation basins. Landscape block production and storage is in the north central part of the site, to the east of the future shop. A majority of the existing and expanded site concrete surfaced (62% existing and 68% expanded area). To capture storm water runoff, a retention basin and drainage channels are constructed on the east side of the site with the basin extended in the expanded site area.

EXISTING LOT COVERAGE – PROPOSED LOT 2 PENNY’S PUD

<u>Use</u>	<u>Square Feet</u>	<u>Percentage</u>
Buildings and Structures	30,177	11%
Driveways/Paving	179,300	62%
Landscape Area	79,300	27%

PROPOSED LOT COVERAGE – PROPOSED LOT 3, PENNY’S PUD

<u>Use</u>	<u>Square Feet</u>	<u>Percentage</u>
Buildings and Structures	4,366	3%
Driveways/Paving	102,439	68%
Landscape Area	43,351	29%

SIGNS: No additional signage is proposed other than the existing ground sign, constructed of concrete, seven feet in length by three feet six inches in height, or 24.5 square feet in area and is externally lit and located parallel to Eureka Terrace and midway between the two access points to the site. Additionally, Exempt signage in Article VI, Section 6-104 (A)(1),(2),(4),(5), and (7); and, Section 6-104 (B)(2) and B(5), shall be permitted (*attachment*). Exempt signage requirements were amended between the time the Penny’s PUD was approved in 2008 and today.

LIGHTING: Thirty five foot light poles on a two foot six inch base and full cutoff lights on buildings.

**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 amendment is consistent with the intent and purpose of approved Penny's Concrete PUD for with an existing concrete batch plant and will allow for expansion to meet demand. Approval of the proposed amendment will ensure the efficient development and preservation of the entire PUD.

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 proposed amendment is necessary due to increased demand for concrete, a part of which is associated with the construction of the K-18 Highway project, as explained by the applicant. The applicant indicates in its written documents that, "The expansion is necessary due to growing business and volume demands. The realignment of K-18 may allow access in and out of the site onto a frontage road. Penny's will be negotiating with the appropriate authorities for access."

3. WHETHER THE PROPOSED AMENDMENT WILL RESULT IN A RELATIVE GAIN TO THE PUBLIC HEALTH, SAFETY, CONVENIENCE OR GENERAL WELFARE, AND IS NOT GRANTED SOLELY TO CONFER A SPECIAL BENEFIT UPON ANY PERSON:

Approval of the proposed amendment will result in a relative gain to the general public by allowing an expansion of an industry that is subject to local, state and federal requirements intended to protect the public from encroachment into FAA airspace, blowing dust and impacts on the 100 Year Flood Plain. The proposed modifications to the approved PUD maintain the character of the existing Penny's PUD.

The proposed amendment will not be granted as a special benefit to any one person. The proposed modifications are in response to market conditions in order to allow for growth of the industry and a benefit to the general public. The expansion at the existing site allows for expansion of the industrial use in an equivalent setting is consistent with the current use of the property, a concrete batch plant and aggregate storage.

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

1. LANDSCAPING: Landscaping is functional for the heavy industrial nature of the site and consists of a landscaped front yard of grass with foundation plantings along the front screening wall, facing Eureka Terrace, on proposed Lot 2, and an expansion of the same onto proposed Lot 3. The perimeter of the site will be fenced along the north, south and east lot lines and landscaped inside the same perimeter with five to six foot tall evergreen trees around the majority of those boundaries, except for the Breakout Area, see below under **DRAINAGE**, along the southeastern lot line, which will be landscaped with ornamental trees to maintain conveyance of the flood waters in the Breakout Area. The proposed evergreens have a mature height of 40 to 50 feet. A short berm is also proposed along the south lot line to elevate the evergreen trees to screen industrial operations in the southern part of the PUD. The northern and eastern boundaries of the site will include grass lined drainage ditches and the retention pond. Landscaped areas will be irrigated with underground systems and maintained by the applicant.

2. SCREENING: A six foot eight inch concrete block screening wall is along the majority of the eastern, Eureka Terrace frontage, except for four foot tall gray steel tubing entrance gates.

The remainder of the site is, and will be, screened by a six foot slatted security fence on the east and south lot lines. There is an existing screening fence on the Star Lumber property abutting the proposed PUD and the applicant added a dense row of evergreen trees to further screen the Star Lumber site. The bottom of fencing in the Breakout Area will be elevated approximately two feet to allow conveyance of flood waters in the Breakout Area. Ornamental trees will be pruned to allow conveyance of flood waters.

Trash dumpsters are intended to be behind buildings.

3. DRAINAGE: A DRAINAGE STUDY WAS SUBMITTED IN 2006 WITH THE PRELIMINARY PLAT FOR THE ENTIRE EUREKA ADDITION SUBDIVISION. THE STUDY WAS REVIEWED AND ACCEPTED BY THE CITY ENGINEER. AN UPDATE TO THE ORIGINAL STUDY WAS SUBMITTED AND ACCEPTED WITH THE PENNY'S PUD IN 2008. AS A PART OF THE PROPOSED AMENDMENT AND REZONING, KAREN L. WEATHERS, P.E., BG CONSULTANTS, SUBMITTED A STORM DRAINAGE REPORT FOR PENNY'S CONCRETE LOT 36, DATED JUNE 15, 2011. THE 2011 UPDATE WAS REVIEWED AND ACCEPTED BY THE CITY ENGINEER (ATTACHMENTS).

STORM WATER DRAINS TO AN EXISTING GRASS LINED RETENTION POND ON THE EAST SIDE OF THE PUD, WHICH WILL BE EXTENDED TO THE SOUTH ONTO PROPOSED LOT 3. THE RETENTION POND IS DESIGNED TO HOLD THE 100 YEAR STORM FROM THE EXPANDED CONCRETE SURFACE OF THE PUD. IF NEEDED A STORM WATER SMALL PUMP WILL PUMP RETAINED WATER INTO THE CITY'S STORM WATER SYSTEM, CONSISTING OF CURB AND GUTTER AND STORM WATER PIPES AND INLETS, LOCATED NEAR THE NORTHWEST CORNER OF THE SITE.

THE RETENTION POND WILL BE OWNED AND MAINTAINED BY THE APPLICANT. Provisions to insure the continued long term maintenance of private drainage facilities will be provided with a Restrictive Covenant, which will be filed with the Final Plat to ensure long term maintenance of drainage improvements by the owner and the provision to allow the City to access and assess the property if the owner fails to perform the required maintenance.

Part of the proposed PUD is in the regulated and buildable portion of the 100 Year Flood Plain, and the remainder is in the 500 Year Flood Plain, which is not regulated.

Specifically, the southeastern portion of proposed Lot 2 and Lot 3 are in the 100 Year Flood Plain and divided into the buildable portion, Floodway Fringe, with development subject to the Flood Plain Regulations. A small portion in the 100 Year Flood Plain is in a unique area identified on the Flood Insurance Rate Map and Flood Insurance Study (FIS) as a Breakout Area. The Breakout Area is treated like a Floodway. The FIS indicates the Floodways of the Eureka Valley tributary were computed based on a reduced discharge due to a split flow from the north towards Eureka Lake. Because of this, the conveyance of flood waters must be maintained at 2,000 cubic feet per second in the Breakout Area. In 2008, the applicant's consultant, Monty Prescott, P.E., BG Engineering, indicated that the proposed ornamental trees in the Breakout Area would not interfere with the flood water conveyance within the Breakout Area. In addition, the slatted fence would be elevated 2.2 feet above grade for conveyance of flood water in the breakout Area. Prescott indicated that the slatted fence posts in the Breakout Area will not interfere with the conveyance of flood waters. The same conditions will apply to the extension of the PUD onto proposed Lot 3.

Development is defined in Article X, Flood Plain Regulations, of the Manhattan Zoning Regulations and means "Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, levees, levee systems, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials located within the area of special flood hazard." A Flood Plain Development permit will need to be applied for and approved prior to development of that

part of the site in the Breakout Area, Floodway and Floodway Fringe. Additional review by the Kansas Division of Water Resources may be needed dependent upon the extent of fill in the 100 Year Flood Plain and other factors.

In addition, HNTB, as consultant for KDOT, submitted a Conditional Letter of Map Revision related to improvements associated with the realignment of K-18 Highway. The as-built conditions may remove the 100 Year Flood Plain and Breakout Area from proposed Lot 2 and 3, at some future date either by Letter of Map Revision or updated flood plain maps.

4. CIRCULATION: Access to the PUD is safe and efficient. Access is from three existing curb cuts onto Eureka Terrace and a fourth curb cut to proposed Lot 3. Internal circulation within the industrial site is on concrete pavement. The site and Eureka Addition will be served by the future **K-18 REALIGNMENT, WHICH CURRENTLY SHOWS THE HIGHWAY NEAR THE EASTERN BOUNDARY OF THE PUD (ATTACHMENT). THE SITE PLAN SHOWS A POSSIBLE CURB CUT ONTO THE FRONTAGE ROAD, WHICH WILL HAVE TO BE APPROVED, AT THIS TIME, BY RILEY COUNTY, AND KDOT.**

Traffic Analysis

A traffic analysis of the Eureka Addition was originally submitted with the Preliminary Plat and reviewed and accepted by the City Engineer. An updated analysis was not required with the PUD application and an update was not required with the proposed amendment and rezoning.

Minimal impact to the surrounding street system was determined with the Preliminary Plat. The number of vehicle trips associated with the concrete batch plat is minimal in comparison to the total number of trips expected with the full build out of the Eureka Addition. Based on preliminary plat documents, the Eureka Addition will generate 785 vehicles per day at the east entrance (Eureka Terrace and Eureka Drive) and 2,045 vehicles per day at the west entrance (Eureka Terrace and Eureka Drive). The existing PUD generates a range of 60 to 92 trips per day, as reported with the Preliminary Development Plan, with the expanded area contributing a minimal number.

Sidewalks

A sidewalk was shown on the Preliminary Plat on the west side of the Eureka Addition, which met the requirement for sidewalks on local streets as required by the Manhattan Urban Area Subdivision Regulations.

Off-Street Parking

Off-street parking was calculated based on the floor area of the office/shop for Plant #1. A minimum of four spaces was required as a manufacturing and processing activity and seven are provided. The future shop would require 20 parking spaces based on floor area. Ten new off-street parking spaces are proposed on Lot 3. Adequate space for off-street parking is available on the site for concrete trucks and other vehicle storage.

5. OPEN SPACE AND COMMON AREA: Open landscaped space around the perimeter of the site will be owned and maintained by the property owner.

6. CHARACTER OF THE NEIGHBORHOOD: The area within the Eureka and Penny's subdivisions are characterized by the batch plant and a developing light industrial/industrial park consisting of Star Lumber & Supply, a contractor's business, a nearly constructed self-storage site and an auto related service under construction. The neighborhood to the north is Eureka Drive, Flint Hills Job Corps Center and agricultural fields. The neighborhood to the immediate south and west of the rezoning site is undeveloped light industrial and industrial park lots and agricultural fields. The dominant use to the southwest is the Manhattan Regional Airport. Residential neighborhoods are to the west of the Eureka Addition. The neighborhood to the east is the future realigned K-18 Highway Corridor. Its current use is an agricultural field. The Comprehensive Plan suggests the area to the east of the rezoning site may develop as Industrial and Community Commercial. In the future, the neighborhood will be along a major highway corridor and will be a gateway to the City.

THIRTEEN MATTERS TO BE CONSIDERED WHEN REZONING

1. EXISTING USE: Existing Lot 36, proposed Lot 3, is a vacant heavy commercial property, which is zoned and platted, and can be served by public improvements for heavy commercial land uses allowed in the C-6/AO District, as well as the permitted uses of the C-5, Highway Service Commercial District, subject to a Conditional Use Permit, which must be approved by the Manhattan Board of Zoning Appeals.

2. PHYSICAL AND ENVIRONMENTAL CHARACTERISTICS: Lot 36 is flat and covered with field grasses, and within the 100 Year and 500 Year flood Plains.

Lot 36 is entirely within the Horizontal and Conical Zones of Manhattan's Regional Airport, which requires that the AO, Airport Overlay District, be added to the site. The northwest corner of the site is also within the Approach and Transitional Zones of the airport. Future uses (structures and trees), which are within these Zones 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.

3. SURROUNDING LAND USE AND ZONING:

(a.) **NORTH:** Penny's Concrete, Star Lumber, Eureka Drive, Flint Hills Job Corps, and agricultural fields; Industrial PUD, C-6/AO Districts, U, University District, and Riley County G-1, General Agricultural District.

(b.) **SOUTH:** Undeveloped heavy commercial lots and agricultural fields; C-6/AO Districts and Riley County G-1 District.

(c.) **EAST:** Agricultural fields, Eureka Drive, Scenic Drive, and K-18 highway; Riley County G-1 District.

(d.) **WEST:** Eureka Terrace, contractor business, and undeveloped light industrial lots and undeveloped industrial park lots; I-3, Light Industrial District with AO District and I-2, Industrial Park District with AO District.

4. CHARACTER OF THE NEIGHBORHOOD: See above under number **6, CHARACTER OF THE NEIGHBORHOOD.**

5. SUITABILITY OF SITE FOR USES UNDER CURRENT ZONING: Lot 36 is suitable for the Permitted and Conditional Uses of the C-6/AO Districts.

6. COMPATIBILITY OF PROPOSED DISTRICT WITH NEARBY PROPERTIES AND EXTENT TO WHICH IT MAY HAVE DETRIMENTAL AFFECTS: Properties nearby Lot 36 are the existing Penny's batch plant site, a lumber wholesale supply, Flint Hills Job Corps and Eureka Drive, a portion of which is within the City of Manhattan and a portion, between Eureka Terrace and Scenic Drive, is in Riley County. Nearby properties to the east are undeveloped County G-1. Nearby properties to the west are undeveloped and developing light industrial and industrial park lots in the Eureka Addition. Further to the west are single-family homes in the Ady Addition; residential property lines are approximately 900 feet west of the rezoning site. Eventually, these residential neighborhoods will be separated by I-3, Light Industrial and I-2, Industrial Park development. Nearby properties to the south are undeveloped parts of the Eureka Addition, agricultural fields and the Manhattan Regional Airport.

Attachment No. 3

Current, comparable, and proposed setbacks, as well as other limitations to development and operations on the site should reduce adverse impacts on nearby properties, resulting in a use compatible to the neighborhood, which is an expansion of the existing batch plant.

Setbacks

The current C-6 District affecting Lot 36 has a minimum 25 foot front yard setback. There is no minimum side yard or rear yard setback for uses in the C-6 District when abutting commercial or other zoning districts, other than residential districts. No residential districts abut the site. Likewise, the proposed rezoning of Lot 36 to PUD implements a permitted use of the I-4 District, and minimum front, side and rear yard requirements are the same as the current C-6 District. However, the proposed site plan depicts proposed structures and other activities at setbacks that are greater than the minimum required for either zoning district.

Proposed setbacks, with the exception of the concrete wall and off-street parking, exceed the minimum requirements of either the underlying C-6 District, or the I-4 District if the site was zoned I-4.

The proposed PUD's front yard setback of the six foot eight inch concrete screening wall is 25 feet, which is consistent with the C-6 District, I-4 District and Penny's PUD. Off-street parking is located immediately behind the wall and consistent with the three zoning districts.

The proposed portable plant, Plant #3, is set back approximately 115 feet from the front lot line along Eureka Terrace and 275 feet from the front lot line along future K18 Highway frontage road. The plant's side yard setbacks are approximately 80 feet from the south side lot line and four feet from the north lot line.

The proposed aggregate storage is generally set back about 280 feet from the front lot line on Eureka Drive and 120 feet from K-18 right-of-way, five feet and 80 feet from the north and south side lot lines, respectively. Aggregate storage will be stored in movable concrete block bins. KDHE requirements and applicant practices minimize blowing dust and other matter.

Other Site Limitations

As previously described above under **SCREENING**, the site will be well screened with a combination slatted fence and evergreen trees, with the exception being the Breakout Area where ornamental trees will be used to allow conveyance of flood waters.

Storage of aggregate will be in the area noted on the plan and in movable concrete block bins to meet demand. The applicant's dust reduction process includes a sprinkler system in aggregate storage areas, as well as dust control systems with each batch plant. The concrete batch plants are subject to particulate emission standards and air quality permits, which are required by KDHE. In addition, water control pollution permits must be obtained from KDHE and a federal permit for authorization of discharge under the National Pollutant Discharge Elimination System.

Lot 36 is entirely within the Horizontal and Conical Zones of Manhattan's Regional Airport, which requires that the AO, Airport Overlay District, be added to the site. The northwest corner of the site is also within the Approach and Transitional Zones of the airport. Future uses (structures and trees), which are within these Zones 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 proposed maximum structure height in the existing PUD is 68 feet to the top of the cement silo. The Federal Aviation Agency (FAA) previously determined there would be no hazard to air navigation, based on a height of 100 feet for the Concrete Batch Plant in the existing Penny's PUD. The FAA's determination indicated future construction requires additional notice to the FAA. The addition of Plant #3 requires additional notice to the FAA before Plant #3 is added to the site.

While the proposed rezoning of Lot 36 is not consistent with the original intent of the light industrial/industrial park/heavy commercial nature of the Eureka Addition, Plant #3 and aggregate storage, will have significant screening and operational setbacks, which should result in reduced impacts on nearby properties.

7. CONFORMANCE WITH COMPREHENSIVE PLAN: THE SOUTHWEST PLANNING AREA OF THE FUTURE LAND USE MAP OF THE MANHATTAN URBAN AREA COMPREHENSIVE PLAN DESIGNATES THE MAJORITY OF THE PROPOSED EUREKA ADDITION AS INDUSTRIAL (IND). THE SOUTHERN PART OF THE SITE IS DESIGNATED FLOOD HAZARD AREA. THE NORTHWEST CORNER OF THE SITE IS WITHIN THE APPROACH AND TRANSITIONAL ZONES OF THE MANHATTAN REGIONAL AIRPORT, AND ENTIRELY WITHIN THE HORIZONTAL AND CONICAL ZONES OF THE AIRPORT, AS SHOWN ON THE ENVIRONMENTAL VALUES AND CONSTRAINTS MAP. THE SITE IS ALSO WITHIN THE EUREKA VALLEY SPECIAL PLANNING AREA.

SPECIFIC POLICY STATEMENTS OF THE COMPREHENSIVE PLAN, AS THEY RELATE TO THE PROPOSED REZONING SITE INCLUDE:

I 1: Characteristics. *The Industrial designation is intended to provide locations for light and heavy manufacturing, warehousing and distribution, indoor and screened outdoor storage, and a wide range of other industrial services and operations. Typically, heavy industrial uses involve more intensive work processes, and may involve manufacturing or basic resource handling and/or extraction. Design controls within an Industrial area are not as extensive as in the Office/Research Park category and a broader range of uses is permitted. (Chapter 4: Land Use and Growth Management, page 4-15)*

I 2: Location. *Because of their potential environmental impacts, Industrial uses should generally be located away from population centers or must be adequately buffered. Traffic generated by industrial uses should not pass through residential areas. Sites should have access to one or more major arterials or highways capable of handling heavy truck traffic. Railroad access is also beneficial to certain types of heavy industrial uses. Light industrial uses can typically be located in areas that also contain some highway-oriented commercial uses, and might benefit from close proximity and better access to their local customer base. (Chapter 4: Land Use and Growth Management, page 4-15)*

I 3: Screening. *Storage, loading and work operations should be screened from view along all industrial area boundaries (when adjacent to non-industrial uses) and along all public streets. (Chapter 4: Land Use and Growth Management, page 4-15)*

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. (Chapter 5, Natural Resources and Environment, page 5-3)*

EV 1: Manhattan Regional Airport. *The location and design of future development should be compatible and consistent with the goals and policies of the Airport Master Plan. (Chapter 13: Special Planning Area Policies, page 13-6)*

EV 7: Gateway Corridor Design. *The Fort Riley Boulevard/K-18 Corridor leading into the community from the southwest, should be enhanced through such approaches as landscape treatments, coordinated signage and lighting and development of design guidelines in order to create an attractive gateway into the community. (Chapter 13: Special Planning Area Policies, page 13-6)*

Development within the 100 Year Flood Plain is regulated according to the Flood Plain Regulations of the Manhattan Zoning Regulations. Development is defined in the Flood Plain Regulations and includes fill as well as excavation. A Flood Plain Development Permit is required for development in the 100 Year Flood Plain.

The AO District is proposed to be added to the underlying zoning district, which will control construction within the AO District.

THE COMPREHENSIVE PLAN RECOGNIZES THAT HEAVY INDUSTRIAL USE IS AN ACTIVITY WITHIN THE IND CATEGORY, WITH HEAVY INDUSTRIAL A TYPE OF ACTIVITY INVOLVING MORE INTENSIVE PROCESSES THAN OTHER INDUSTRIAL ACTIVITIES. THE PROPOSED REZONING OF LOT 36 WILL BE NEAR THE PROPOSED REALIGNMENT OF THE K-18 HIGHWAY, WHICH IS NOTED AS A GATEWAY TO THE CITY FROM THE SOUTHWEST. THE PROPOSED REZONING INCLUDES SCREENING OF THE SITE, WHICH SHOULD PROVIDE A VISUAL BARRIER FROM THE PUBLIC'S VIEW ALONG THE FUTURE HIGHWAY REALIGNMENT OF MOST INTERNAL SITE ACTIVITIES, EXCLUDING THE PLANT ITSELF. THE PROPOSED REZONING IS IN GENERAL CONFORMANCE TO THE COMPREHENSIVE PLAN.

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

February 6, 2006: Manhattan Urban Area Planning Board considers annexation of the 53-acre site and conducts the public hearings on the **PROPOSED REZONING OF THREE TRACTS OF LAND FROM COUNTY G-1, GENERAL AGRICULTURAL DISTRICT, AND N-1, AIRPORT NOISE HAZARD DISTRICT, TO I-2, Industrial Park District; C-6, Heavy Commercial District; and I-3, Light Industrial District, all with AO, Airport Overlay District. The PLANNING BOARD RECOMMENDS APPROVAL OF THE ANNEXATION ON A VOTE OF 5-1; AND RECOMMENDED APPROVAL OF THE REZONING OF THREE TRACTS OF LAND ON A VOTE OF 5-1. THE BOARD TABLED THE PRELIMINARY PLAT TO THE FEBRUARY 23, 2006, PLANNING BOARD MEETING, ON A VOTE OF 6-0.**

FEBRUARY 21, 2006 CITY COMMISSION, ON A VOTE OF 5-0, APPROVES RESOLUTION NO 022106-A, requesting that the Board of Riley County Commissioners make positive findings regarding the island annexation of the proposed Eureka Addition.

Attachment No. 3

- February 23, 2006 Manhattan Urban Area Planning Board approves Preliminary Plat 6-0, with three conditions.
- March 16, 2006 Board of Riley County Commissioners considers island annexation request, as per K.S.A. 12-520c and tables for additional information.
- March 30, 2006 Board of Riley County Commissioners continues consideration of island annexation request, as per K.S.A. 12-520c, and approves Resolution No. 03006-13, finding that the annexation will not hinder development or prevent proper growth.
- April 18, 2006 City Commission approves first reading of ordinances annexing and rezoning the proposed Eureka Addition.
- May 2, 2006 City Commission approves Ordinance Nos. 6537 and 6538 annexing and rezoning the proposed Eureka Addition.
- August 7, 2006 Manhattan Urban Area Planning Board approves Final Plat Eureka Addition.
- September 5, 2006 City Commission accepts easements and rights-of-way as shown on the Final Plat Eureka Addition.
- September 15, 2008 Manhattan Urban Area Planning Board recommends, on a vote of (5-1) rezoning Lots 12 – 15, Eureka Addition from C-6, Heavy Commercial District with AO, Airport Overlay District, to PUD, Industrial Planned Unit Development District with AO, Airport Overlay District.
- October 14, 2008 City Commission approves first reading of an ordinance rezoning Lots 12 – 15, Eureka Addition, to PUD, Industrial Planned Unit Development District with AO, Airport Overlay District.
- October 21, 2008 City Commission approves Ordinance No. 6730 rezoning Lots 12 – 15, Eureka Addition, to PUD, Industrial Planned Unit Development District with AO, Airport Overlay District.
- November 3, 2008 Manhattan Urban Area Planning Board approves Final Plat of the Penny's Addition and the Final Development Plan of Penny's Concrete Industrial PUD.

- November 18, 2008 City Commission accepts easements and rights-of-way as shown on the Final Plat of Penny's Addition.
- February 1, 2010, Manhattan Urban Area Planning Board Approves Final Plat of the Eureka Addition, Unit Two.
- February 16, 2010 City Commission Accepts Easements and Rights-Of-Way as shown on the Final Plat Eureka 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 proposed rezoning of Lot 36 to PUD will establish a Concrete Batch Plant and aggregate storage area, which is a permitted use of the I-4, Heavy Industrial District. The I-4 District is designed to allow industries involved with the basic manufacturing and processing of raw materials which are apt to have an extensive impact on the surrounding area. The proposed rezoning is limited to a single permitted use of the I-4 District and will provide setbacks, screening and other regulatory restrictions that mitigate the impact of the heavy industrial character of the site. In addition, the Manhattan Zoning Regulations only allow limited opportunities for Concrete Batch Plants, either in the I-4 District as a Permitted Use, or as a Conditional Use in the LM-SC, Light Manufacturing-Service Commercial District, and only for existing Concrete Batch Plants. The proposed rezoning implements a recommendation of the Comprehensive Plan to accommodate the expansion of the existing Penny's Concrete PUD.

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." Future uses (structures and trees, existing and proposed) in the AO District may be required to obtain an Airport Compatible Use Permit (AO District regulations attached).

Development in the 100 Year Flood Plain is subject to the requirements of the Flood Plain Regulations of the Manhattan Zoning Regulations, which are intended to protect life and property from flooding.

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 compared to the hardship to the owner. The proposed rezoning is part of an expansion of the Penny's PUD. The rezoning process provides for local review and consideration of the use and its impact on the public, as well as state and federal permits for environmental impacts.

The AO District requires that future uses be reviewed in order to protect airspace. The FAA made a determination of no hazard to air navigation, based on a height of 100 feet for Plant # in the Penny's PUD. Plant #3 will require additional notice to the FAA before the plant is added to the area. Assuming approval by the FAA, no adverse impact by the proposed structure is expected that would adversely affect safe and efficient use of navigable airspace by aircraft.

11. ADEQUACY OF PUBLIC FACILITIES AND SERVICES: Adequate street, sanitary sewer and water services are available to serve the proposed rezoning site.

12. OTHER APPLICABLE FACTORS: There are no other applicable factors.

13. STAFF COMMENTS: City Administration recommends approval of the proposed amendment of Ordinance No. 6730 and the approved Final Development Plan of the Penny's Concrete Industrial PUD and the rezoning of Lot 36, Eureka Addition, Unit Two, from C-6/AO to PUD/AO, to be known as the Final Development Plan of Penny's Concrete, Unit Two, an Industrial PUD, subject to the following condition:

1. Exempt signage shall include signage described in Article VI, Section 6-104 (A)(1),(2),(4),(5),and (7); and, Section 6-104 (B)(2) and B(5).

ALTERNATIVES:

1. Recommend approval of the proposed amendment of Ordinance No. 6730 and the approved Final Development Plan of the Penny's Concrete Industrial PUD and the rezoning of Lot 36, Eureka Addition, Unit Two, from C-6/AO to PUD/AO, to be known as the Final Development Plan of Penny's Concrete, Unit Two, an Industrial PUD, stating the basis for such recommendation.
2. Recommend denial of the proposed amendment of Ordinance No. 6730 and the approved Final Development Plan of the Penny's Concrete Industrial PUD and the rezoning of Lot 36, Eureka Addition, Unit Two, from C-6/AO to PUD/AO, to be known as the Final Development Plan of Penny's Concrete, Unit Two, an Industrial PUD, 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. 6730 and the approved Final Development Plan of the Penny's Concrete Industrial PUD and the rezoning of Lot 36, Eureka Addition, Unit Two, from C-6/AO to PUD/AO, to be known as the Final Development Plan of Penny's Concrete, Unit Two, an Industrial PUD, based on the findings in the Staff Report, subject to the one condition of approval recommended by City Administration.

PREPARED BY: Steve Zilkie, AICP, Senior Planner

DATE: July 27, 2011

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