

**MINUTES**  
**CITY COMMISSION MEETING**  
**TUESDAY, MARCH 16, 2004**  
**7:00 P.M.**

The Regular Meeting of the City Commission was held at 7:00 p.m. in the City Commission Room. Mayor Mark Taussig and Commissioners Brad Everett, Ed Klimmek, Bruce Snead, and Mark Hatesohl were present. Also present were the City Manager Ron R. Fehr, Assistant City Manager Diane Stoddard, Assistant to the City Manager Jason Hilgers, City Attorney Bill Frost, City Clerk Gary S. Fees, 7 staff, and approximately 63 interested citizens.

**PLEDGE OF ALLEGIANCE**

Mayor Taussig led the Commission in the Pledge of Allegiance.

**PROCLAMATIONS**

Mayor Taussig proclaimed March 15-21, 2004, **Brain Awareness Week**. Faye Kennedy, Pilot Club of Manhattan; Stephanie Harvey Vruwink, Sunflower Pilot Club; and Kathy Farr, Little Apple Pilot Club; Co-Chairs, Brain Awareness Week, were present to receive the proclamation.

Mayor Taussig proclaimed April 17, 2004, **The Big Event**. Jason Heaser, Student Affairs and Social Services Chair, Student Governing Association (SGA), was present to receive the proclamation.

**COMMISSIONER COMMENTS**

Commissioner Snead informed the community of the Home Energy Rating Program and encouraged citizens to sign up for an opportunity for an energy rating to be conducted on your home.

Commissioner Everett extended congratulations to the Kansas State University basketball teams and baseball team. He said it was disturbing to see public sector employee's salaries recently published in the *Manhattan Mercury* and asked that the media refrain from doing it again.

Ron Fehr, City Manager, informed the community about the City Commissioner's recent meetings held in Washington, D.C.

## COMMISSIONER COMMENTS (CONTINUED)

Mayor Taussig informed the community of the Spring Clean-Up Program scheduled April 5 – 9, 2004. He encouraged people to attend the Kansas State University Open House on Saturday, April 3, 2004. Finally, he thanked the Riley County Police Department and the officers who were recognized Monday, March 15, 2004, during the Riley County Law Board Meeting.

## CONSENT AGENDA

(\* denotes those items discussed)

### MINUTES

The Commission approved the minutes of the Regular City Commission Meeting held Tuesday, March 2, 2004.

### CLAIMS REGISTER NO. 2501

The Commission approved Claims Register No. 2501 authorizing and approving the payment of claims from February 25, 2004, to March 9, 2004, in the amount of \$1,031,765.39.

### FINAL PLAT – STONECREEK BUSINESS CENTER

The Commission accepted the easements and rights-of-way, as shown on the Final Plat of Stonecreek Business Center, a Commercial Planned Unit Development, generally located southeast of the intersection of Kimball Avenue and Anderson Avenue, based on conformance with the Manhattan Urban Area Subdivision Regulations.

### FINAL PLAT – HACKBERRY ADDITION

The Commission accepted the easements and rights-of-way, as shown on the Final Plat of Hackberry Addition, generally located east of the intersection of Casement Road and Butterfield Road, and west of the dead-end of Hackberry Avenue, based on conformance with the Manhattan Urban Area Subdivision Regulations.

### FINAL PLAT – MANHATTAN TOWN CENTER 5

The Commission accepted the easements and rights-of-way, as shown on the Final Plat of Manhattan Town Center 5, generally located at 100 Manhattan Town Center, based on conformance with the Manhattan Urban Area Subdivision Regulations.

## CONSENT AGENDA (CONTINUED)

### AGREEMENT – ENGINEERING SERVICES – TUTTLE CREEK BOULEVARD/EHLERS ROAD (ST0210)

The Commission authorized the Mayor and City Clerk to enter an agreement for construction engineering services related to the improvements at the intersection of Tuttle Creek Boulevard and Ehlers Road (ST0210).

### RESOLUTION NO. 031604-B – WOODLAND HILLS ADDITION, UNIT 5, PHASE 1 – WATER IMPROVEMENTS (WA0403)

The Commission found the petition sufficient approved Resolution No. 031604-B making findings and authorizing construction for Woodland Hills Addition, Unit 5, Phase 1, Water Improvements (WA0403).

### RESOLUTION NO. 031604-C – WOODLAND HILLS ADDITION, UNIT 5, PHASE 1 - STREET IMPROVEMENTS (ST0402)

The Commission found the petition sufficient and approved Resolution No. 031604-C making findings and authorizing construction for Woodland Hills Addition, Unit 5, Phase 1, Street Improvements (ST0402).

### RESOLUTION NO. 031604-D – WOODLAND HILLS ADDITION, UNIT 5, PHASE 1 – SANITARY SEWER IMPROVEMENTS (SS0402)

The Commission found the petition sufficient and approved Resolution No. 031604-D making findings and authorizing construction for Woodland Hills Addition, Unit 5, Phase 1, Sanitary Sewer Improvements (SS0402).

### AGREEMENT – ENGINEERING SERVICES – WOODLAND HILLS ADDITION, UNIT 5, PHASE 1

The Commission authorized the Mayor and City Clerk to execute an agreement with Schwab-Eaton P.A., of Manhattan, Kansas, to perform engineering services for the Woodland Hills Addition, Unit 5, Phase 1, Improvements (WA0403), (ST0402), and (SS0402).

### AGREEMENT – DOWNTOWN FARMER’S MARKET, INC.

The Commission authorized the Mayor and City Clerk to execute an agreement with the Downtown Farmer’s Market, Inc.

\* ADMINISTRATIVE PLAN – MANHATTAN HOUSING REHABILITATION PROGRAM

Karen Davis, Director of Community Development, answered questions from the Commission.

## CONSENT AGENDA (CONTINUED)

\* **ADMINISTRATIVE PLAN – MANHATTAN HOUSING REHABILITATION PROGRAM (CONTINUED)**

The Commission approved the Administrative Plan for the Manhattan Housing Rehabilitation Program.

\* **ORDINANCE NO. 6391 – AMEND ZONING REGULATIONS – GAME DAY PARKING PROVISION**

Ron Fehr, City Manager, stated a Work Session would be scheduled before the football season to discuss this issue further.

The Commission approved Ordinance No. 6391 amending the Manhattan Zoning Regulations, by adding the modified game day parking provision to Article VII, Off-Street Parking and Loading, based on the findings in the October 27, 2003, Staff Memorandum. (*See Attachment No. 1*)

After discussion, Commissioner Hatesohl moved to approve the consent agenda. Commissioner Klimek seconded the motion. On a roll call vote, motion carried 5-0, with the exception of Item J: Ordinance No. 6391 – Amend Zoning Regulations – Game Day Parking Provision, which carried 3-2 with Commissioners Everett and Snead voting against the item.

## GENERAL AGENDA

**FIRST READING - PHASE 3: TNO, TRADITIONAL NEIGHBORHOOD OVERLAY (TNO) DISTRICT AND RELATED REZONINGS**

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

Bill Frost, City Attorney, clarified Sub Area B, regarding 830 Kearney Street. He said the ordinance rezoning Sub Area B could contain a savings clause, which would allow the applicants to receive their building permit, and construct the two-family dwelling, as long as it complied with the TNO regulations.

Eric Cattell, Assistant Director for Planning, answered questions from the Commission.

Mary Don Peterson, 2912 Arbor Drive, representing the Coalition of Neighborhood Associations, and Jamie Ramsey, 831 Bertrand Street, Bluemont-Goodnow Park Neighborhood Association, spoke in support of the Manhattan Urban Area Planning Board and City Staff's recommendation.

## GENERAL AGENDA (CONTINUED)

### FIRST READING - PHASE 3: TNO, TRADITIONAL NEIGHBORHOOD OVERLAY (TNO) DISTRICT AND RELATED REZONINGS (CONTINUED)

Jim Sherow, 529 Pierre Street, President, Riley County/Manhattan Historic Preservation Coalition, informed the Commission that he purchased a rental house and converted it into a single-family home, receiving a good return on his investment. He then showed several photos of homes in the TNO District.

Dave Manning, 401 Thurston Street; Ralph Diaz, 412 Kearney Street; Bob Willette, 806 Osage Street, co-chair, East Park Neighborhood Association; Nicole Rogers, 804 Thurston Street; Ann Kosch, 405 Vattier Street; and Elaine Moore, 800 South Juliette, spoke in support of the item and urged the Commission to approve City Staff's recommendation

Eric Bernard, 508 Bertrand Street, applauded the work of City Staff on the item and supported the item as presented.

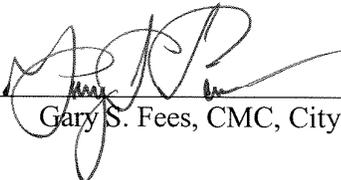
Angie Settle, 630 Bluemont Avenue, purchased a rehabilitated rental and said the tax values have went up significantly.

Peter Sultana, 914 Osage Street, and Harold Kraus, 612 Laramie Street, East Side Neighborhood Association, urged the Commission to approve the TNO District.

After discussion Commissioner Snead moved to approve first reading of an ordinance rezoning Phase 3 Sub Areas A, B, C and D, as proposed, based on the findings in the Cover Memorandum (*See Attachment No. 2*) and the Sub Area Staff Reports (*See Attachments No. 3, 4, 5, and 6*), as recommended by the Manhattan Urban Area Planning Board. Commissioner Everett seconded the motion. On a roll call vote, motion carried 5-0.

### ADJOURNMENT

At 9:12 p.m. the Commission adjourned.

  
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Gary S. Fees, CMC, City Clerk

*Attachment No. 1*



## INTER-OFFICE MEMORANDUM

**DATE:** October 27, 2003

**TO:** Manhattan Urban Area Planning Board

**FROM:** Steve Zilkie, AICP, Senior Planner

**RE:** Amend Article VII, Off-Street Parking and Loading, to Allow for Game Day Parking in Front Yards in Designated Areas in the City

### BACKGROUND

#### General Background

Attendance at KSU football games has increased over the years, along with parking fees in surrounding lots. Correspondingly, parking in front yards (on lawns) in neighborhoods around the football stadium has increased on both residential and non-residential properties as fans look for other parking options. In response to complaints from some property owners about game day parking on lawns and damage to adjacent properties, the Riley County Police Department announced earlier this fall that it would begin enforcing the Zoning Regulations, which prohibit parking in front yards, except upon a driveway.

Other property owners in areas generally west of the KSU football stadium, have expressed concern about the restrictions imposed by the front yard requirements and the difficulty of being able to find parking on game days for family and friends because on-street parking is not available (*attachments*).

The City Commission discussed the issue at a briefing session and directed City Administration to develop a mechanism to allow front yard parking on game days in the areas around the stadium.

On October 7, 2003, the City Commission approved Resolution No. 100703-B (*attached*), requesting that City Administration initiate, and the Manhattan Urban Area Planning Board consider, an amendment to Section 7-102 of the Manhattan Zoning Regulations, which would allow the City Manager to designate areas within the City where the

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temporary parking of motor vehicles is permitted within the Front Yard, in order to provide additional off-street parking to accommodate KSU athletic events. In addition, the Resolution imposed a moratorium on the enforcement of the existing front yard parking restriction, while the Amendment is being considered. The area described in the moratorium is bounded by Browning Avenue on the west, Claffin Road on the south, Denison Avenue on the east and the City Limits on the north, and only applies on those days when an intercollegiate football game is occurring at KSU stadium.

The proposed amendment to the Zoning Regulations was developed by City Administration to address the City Commission's concerns.

**Proposed Changes to Article VII, Section 7-102 (C)**

The proposed text amendment is new Section 7-102(C)(4) (*Article VII, Off-Street Parking and Loading attached*):

Notwithstanding the provisions of this section, in order to provide additional off-street parking to accommodate Kansas State University athletic events, the City Manager, in his discretion, by Administrative Order, may designate areas within the City where the temporary parking of motor vehicles is permitted within the required front yard, and the other restricted areas as described in paragraph 2 above. The City Manager shall also be authorized to modify, amend or withdraw any such Administrative Order, by a subsequent Administrative Order. Any Administrative Order, permitting such temporary parking, shall identify the area, within which such temporary parking is permitted, and the times, or circumstances, when it is permitted. The Administrative Order shall be filed with the City Clerk and the Zoning Administrator, and shall be open to inspection by the public. In addition, a copy of the Administrative Order shall be provided to the Director of the Riley County Police Department. Notice of issuance of the Administrative Order shall be published once in the official city newspaper before it becomes effective.

The text is self-explanatory. The City Manager is authorized to designate areas for temporary game day parking in front yards. The reference to "other restrictive areas" is that area on residential properties that is beyond the minimum 25-foot front yard setback, but still in front of the principal structure (see Section 7-102 (C)(2)).

An example of a draft Administrative Order is attached.

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## **AMENDMENTS TO THE TEXT OF THE ZONING REGULATIONS**

When a proposed amendment results in a change to the text of the Zoning Regulations, the report from the Planning Staff shall contain a statement as to the nature and effect of the proposed amendment, and determinations as to the following:

### **WHETHER SUCH CHANGE IS CONSISTENT WITH THE INTENT AND PURPOSE OF THE ZONING REGULATIONS**

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 amendment recognizes some existing temporary game day parking conditions that have been occurring for several years, such as at churches, vacant lots or other areas near the stadium.

The amendment allows a temporary use and would be limited to specifically described areas. The change is not unlike other temporary uses such as sales and promotions, Christmas tree sales lots or fire works stands, all of which have limited time frames during which the use occurs.

On balance, the temporary nature of activity reflected in the amendment is generally consistent with the intent of the Zoning Regulations.

### **AREAS WHICH ARE MOST LIKELY TO BE DIRECTLY AFFECTED BY SUCH CHANGE AND IN WHAT WAY THEY WILL BE AFFECTED**

By administrative order, the City Manager has the discretion to designate an area within the City where the temporary parking of motor vehicles is permitted within the front yard area on lawns in front of the principal building on the site. It is anticipated that the amendment will most likely affect an area in proximity to the football stadium, which is bounded by Browning Avenue on the west, Claflin Road on the south, Denison Avenue on the east, and the City Limits on the north; however, other areas may be affected.

A drive-through of the area described above was conducted on Saturday October 25, 2003. There were some instances of a vehicle or two parking on lawns of residential dwellings throughout the area. Several lawns of single-family homes were used as parking lots, which should have been expected as a result of the moratorium. Those homes were located immediately west of the stadium off College Avenue along Vaughn Drive and Himes Road, off Sunnymeade Road south of Kimball Avenue, and in the vicinity of Pipher Lane

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and Jardine Drive. In addition, parking occurred on vacant lots and a church as has happened for some time. Even though parking would have been allowed on front lawns in the area described above, the vast majority of the residential front yard lawns were not used for off-street parking.

The Riley County Police Department has indicated that there might be an impact on post game traffic circulation and the routes that drivers use to leave the area after a game. The Police Department indicates that some changes in circulation have already been experienced and that they are in the process of determining how traffic should be rerouted following games.

Because it is unknown to what extent fans will look for parking options farther away from the stadium, or how many property owners might utilize this amendment, it is difficult to determine the extent of potential impacts. However, it is anticipated that any impacts caused by the amendment would generally be temporary in nature and occur only on those days in which home KSU games are scheduled, as cited in the Administrative Order. It should be noted that nothing in the amendment would permit such parking without the consent of the property owner.

**WHETHER THE PROPOSED AMENDMENT IS MADE NECESSARY BECAUSE OF CHANGED OR CHANGING CONDITIONS IN THE AREAS AND ZONING DISTRICTS AFFECTED, OR IN THE CITY PLANNING AREA, GENERALLY, AND IF SO, THE NATURE OF SUCH CHANGED OR CHANGING CONDITIONS**

Front yard parking for KSU football games in areas generally within the vicinity of KSU stadium has increased. In response to complaints, City Administration was directed by the City Commission to find a mechanism to allow front yard parking on game days. The proposed Amendment addresses the concerns as expressed by the City Commission.

**WHETHER SUCH CHANGE IS CONSISTENT WITH THE INTENT AND PURPOSE OF THE POLICY AND GOALS AS OUTLINED IN THE ADOPTED COMPREHENSIVE PLAN OF THE CITY**

The Comprehensive Plan does not specifically address the issue reflected in the amendment, in part because the issue is temporary in nature and generally limited to several days out of the calendar year. There are several policy statements in the Comprehensive Plan regarding the preservation of residential neighborhoods and the quality of life. While permitting parking on lawns in front yards is generally contrary to these policies, the specific amendment is limited and temporary in nature. It is likely that a process for educating the public will be necessary so that it is understood where and when this parking may occur.

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### **ALTERNATIVES**

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

1. Recommend approval of the proposed amendment to the City Commission.
2. Recommend denial of the proposed amendment to the City Commission.
3. Modify the proposed amendment and forward the modifications, along with an explanation, to the City Commission.
4. Table the public hearing to a specific date, and provide further direction to City Administration.

### **RECOMMENDATION**

The proposed amendment to Section 7-102 of the Manhattan Zoning Regulations is designed to address the needs of the community as perceived by the City Commission. City Administration recommends approval of the amendment to the Manhattan Zoning Regulations to give the City Manager the ability to issue an Administrative Order to address game day parking, as proposed.

### **POSSIBLE MOTION**

The Manhattan Urban Area Planning Board recommends approval of the amendment to the Manhattan Zoning Regulations Section 7-102, as proposed, based on the findings in the Staff Memorandum.

03137}MUAPB}ArtVIIGameDayParking



## INTER-OFFICE MEMORANDUM

**DATE:** January 22, 2004

**TO:** Manhattan Urban Area Planning Board

**FROM:** Ockert Fourie, MCIP, Senior Planner

**RE:** Cover Memorandum Phase 3: TNO, Traditional Neighborhood Overlay District and Related Rezonings

### INTRODUCTION

A comprehensive study of the issues affecting the older traditional neighborhoods of Manhattan was initiated by the Community Development Department in early 2001 after a number of residents expressed to the Planning Board their concern about the development of larger duplex dwellings in the older parts of the City, and the impact those structures have on the neighborhood and its traditional character (*see attached Project Chronology*). A conditional use requirement was developed by the Community Development Department that was adopted by the City Commission on May 1, 2001, and incorporated in the Zoning Regulations to serve as an interim measure to address the specific "super duplex" infill issue. During discussions on the amendment of the Zoning Regulations, City Administration emphasized that the conditional use alternative was an interim measure and recommended that the community consider a full range of alternatives to address the broader issues of housing, infill development and neighborhood stability, in a more comprehensive way in the older traditional neighborhoods, i.e. the original grid portion of the community (*see Traditional Neighborhood Study Area Map*).

Using input from citizens, business and neighborhood groups; research by the College of Architecture, Planning and Design at Kansas State University; as well as extensive analysis of the older neighborhoods conducted by the Community Development Department using census data, county appraisal data and field surveys, a range of potential longer-term alternatives were evaluated for comprehensively addressing the various issues facing the older neighborhoods. These alternatives included the creation of overlay zoning districts, specifically designed to address the unique development issues and concerns affecting the older traditional neighborhoods of Manhattan.

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The draft TNO, Traditional Neighborhood Overlay, and M-FRO, Multi-Family Redevelopment Overlay Districts, as well as where they could be applied in the older neighborhoods, were extensively discussed starting in December, 2001, at Planning Board work sessions, at seven different meetings with a variety of community and business groups, and in countless one-on-one conversations, to gain broad-based input and suggestions from the community. Based on these inputs, as well as direction from the Planning Board, the Community Development Department identified potential areas in the traditional neighborhoods, which might be appropriate to down-zone, as well as areas that may be appropriate for redevelopment and up-zoning.

On May 14, 2002, the Community Development Department presented a summary of its findings and its initial recommendations to a joint work session of the City Commission and Manhattan Urban Area Planning Board. The discussion covered the full range of options that were considered, including: conditional use; amend zoning regulations; new overlay districts; down zone selected areas; up-zone selected area for redevelopment; establish local historic/conservation districts; design guidelines; Neighborhood Revitalization Program; and Comprehensive Plan Update. The City Commission and Planning Board provided input and instructed City Administration to proceed with final revisions of the proposals in preparation for public hearings.

Based on this direction, the Community Development Department continued to consult with various community and business groups to refine the draft TNO and M-FRO District wording and continued additional field surveys of the neighborhoods and review of the neighborhood analysis, to refine the areas identified for down zoning and up-zoning.

On November 4, 2002, the Planning Board held the public hearing to consider adoption of the TNO and M-FRO Districts as a part of the Zoning Regulations, and recommended approval. On December 3, 2002, the City Commission adopted the TNO District and related amendments, however returned the M-FRO District to the Planning Board for further refinement.

At the February 20, 2003 Planning Board meeting, City Administration recommended that rezonings to apply the TNO and M-FRO Districts in the older traditional neighborhoods, and any concurrent down-zonings or up-zonings, be implemented in four (4) phases, due to the extent of the areas in question, and the number of properties involved (*see Implementation Phases Map*). Implementing the zoning changes in phases would help to divide the larger traditional neighborhood area into smaller more manageable parts that have similar character, issues, and housing and demographic profiles. It was further proposed that the Planning Board initiate Phases 1 and 2 of the rezoning process, to apply the TNO District and the concurrent down zoning of certain identified portions of the older neighborhoods located generally west of City Park (Phase 1), and south of Poyntz

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Avenue (Phase 2). The Planning Board initiated the zoning process for the Phase 1 and 2 rezonings, as the applicant on behalf of the City, and held the public hearing on March 31, 2003, to implement the Phase 1 rezonings in the areas west of City Park. The City Commission gave final approval to the Phase 1 rezonings on May 20, 2003.

On May 19, 2003, the Planning Board reconsidered the revised text of the M-FRO District and recommended approval of an amendment to add the District to the Zoning Regulations. The City Commission approved the amendment to add the revised M-FRO District to the Zoning Regulations on July 1, 2003.

On June 17, 2003, City Administration recommended that the City Commission, as the applicant on behalf of the City, initiate the Phase 4 rezoning process to consider implementation of the M-FRO, Multi-Family Redevelopment Overlay District and the concurrent up-zoning to R-3, Multiple-Family Residential District in the proposed Redevelopment Area located adjacent to the east edge of the KSU Campus and Aggieville. A portion of the area also retained the prior existing University Overlay District. The City Commission gave final approval of the Phase 4 M-FRO redevelopment area rezonings on October 21, 2003.

On October 2, 2003, the Manhattan Urban Area Planning Board approved the initiation of the Phase 3 rezoning process, to consider implementation of the TNO, Traditional Neighborhood Overlay District and associated down zoning in the northeastern part of the older neighborhoods, generally located north of Poyntz Avenue and east of N. 9th Street.

The Planning Board held the public hearing on November 17, 2003, to implement the Phase 2 rezonings in the areas generally south of Poyntz Avenue. The City Commission gave final approval to the Phase 2 rezonings on December 16, 2003.

### **BACKGROUND**

The Phase 3 rezoning process was initiated on January 8, 2004, when notices of the Public Hearing were mailed to the owners of all property proposed to be rezoned in Phase 3. The legal notice of this Public Hearing was also published in the Manhattan Mercury on Monday, January 12, 2004.

The Phase 3 area has been divided into four sub areas, based on the current underlying zoning, and the proposed rezonings (*see Phase 3 Sub Area Map*). Sub Area D falls within the 500-foot environs of two historic structures listed on the National Register of Historic Places: the Robert Ulrich House located at 121 North 18<sup>th</sup> Street; and the Woman's Club House located at 900 Poyntz Avenue (*see Map of Historic Properties*). Both the

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Manhattan Historic Resources Board (MHRB) and the State Historic Preservation Officer (SHPO) considered the proposed rezoning and its potential impact on these historic structures and their environs. The MHRB and SHPO determined that the proposed rezoning will not encroach upon, or destroy any of these listed historic properties or their environs.

The following table provides an overview of Phase 3; its sub areas; the current zoning classification of each sub area; as well as the proposed rezoning:

**Phase 3: Areas Located Generally North of Poyntz Avenue and east of N. 9th Street.**

<i>Sub Area</i>	<i>Current Zoning</i>	<i>Proposed Zoning</i>
A	R-1: Single-Family Residential	R-1/TNO: Single-Family Residential w/ Traditional Neighborhood Overlay
B	R-2: Two-Family Residential	R-1/TNO: Single-Family Residential w/ Traditional Neighborhood Overlay
C	R-2: Two-Family Residential	R-2/TNO: Two-Family Residential w/ Traditional Neighborhood Overlay
D	R-M: Four-Family Residential	R-M/TNO: Four-Family Residential w/ Traditional Neighborhood Overlay

TNO, Traditional Neighborhood Overlay District

The proposed TNO District addresses infill housing and neighborhood stability issues in the older neighborhoods of the community, (i.e. the grid street portion of the community). The TNO District is tailored to address development intensity and the unique site plan and building character issues found in these areas of town. The TNO District is designed and used in conjunction with an underlying R-1, Single-Family Residential District; the R-2, Two-Family Residential District; and/or the R-M, Four-Family Residential District, in the older grid street neighborhoods of the community. The TNO District maintains most of the requirements of the underlying zoning districts and adds some new provisions specifically designed to address the issues unique to the older neighborhoods of Manhattan. It is proposed that the TNO District be applied to all four Sub Areas: A, B, C and D, as shown on the map of Phase 3.

Down Zoning

Down zoning refers to reducing the intensity of the zoning classification for an area. In other words, the new zoning district allows uses of a generally lower intensity than the existing zoning district. For example, if an area is currently zoned R-2, Two Family Residential District, a "down-zoning" would occur if the area was rezoned to the R-1, Single Family District.

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The Planning Board and community have generally favored a combination of both down zoning particular blocks to the R-1 District and applying the TNO District to the broader area, to provide the maximum protection of neighborhood character and ensure a reduction in development intensity in certain identified areas. As indicated in the table above, it is proposed that Sub Area B, which is currently zoned R-2, Two-Family Residential District, be down zoned to R-1, Single-Family Residential District and have the TNO District added. Sub Area B is the only Sub Area in Phase 3, in which the existing underlying zoning is proposed to be changed.

It is proposed to add the TNO District to Sub Area A, which is zoned R-1, Single-Family Residential District, and to Sub Area C, which is zoned R-2, Two-Family Residential District. The underlying R-1 and R-2 zoning of these two Sub Areas is proposed to remain unchanged. Sub Area D is currently zoned R-M, Four-Family Residential District and is also proposed to have the TNO District added on top of it, with the underlying R-M zoning remaining unchanged.

Legal Nonconforming Uses

Down zoning portions of existing neighborhoods will result in a number of nonconforming uses in Sub Area B, because of the number of higher intensity uses, such as duplexes that already legally exist. Provided that an existing nonconforming use was established legally, prior to the down zoning, it can remain indefinitely as long as it does not increase in intensity. Legal non-conforming uses run with the land and not the owner of the property. This means that they can be transferred to a new owner, provided that no changes occur that would result in an increase in the degree of nonconformity.

If the use was not legally established prior to the down zoning, it is still not legal after the down zoning. In addition, any new use of a property established after the down zoning occurs, will be limited to the lower intensity uses permitted in the new zoning district.

Legally established nonconforming uses would be "grand fathered" as a result of the down zoning initiated by the City, pursuant to Article VIII of the Manhattan Zoning Regulations. Some uses may have existed prior to the City enacting zoning in 1926, or may have been established prior to the existing zoning in the area, and could still be legal nonconforming uses. In addition to the land use, other zoning requirements such as setbacks and lot size would also be "grand fathered" as part of the property's legal nonconforming status, provided the property conformed with the zoning requirements in effect at the time the use was originally established.

If a legally existing structure, containing more dwelling units than the proposed down zoning would allow, is accidentally destroyed, it can be rebuilt to the same number of dwelling units that were grand fathered. Article VIII, Section 8-405 (E) "Structures

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Devoted to Legally Nonconforming Uses" provides for the restoration of damaged or destroyed "legal nonconforming" residential dwellings in all residential districts, even if they have been destroyed by more than 50 percent. This helps to ensure that the proposed down zonings will not unduly impact existing property rights for dwellings that legally existed prior to the zoning change, nor adversely affect the ability of newer legally nonconforming structures to obtain insurance or refinancing.

### **DISCUSSION**

The proposed rezonings of the Phase 3 area are a continuation of the process to implement the recommendations developed in the in-depth, two-year study of the traditional neighborhoods in the grid portion of the City. The rezoning proposals presented in this Cover Memorandum and the attached Staff Reports for Sub Areas A, B, C and D, are based on input from citizens, business and neighborhood groups; the Planning Board and the City Commission; research by the College of Architecture, Planning and Design at Kansas State University; as well as extensive research and analysis of the older neighborhoods by the Community Development Department. In addition to the information and findings provided in the Sub Area Staff Reports, the following factors were considered in developing the proposed rezonings for the Phase 3 area.

#### **Neighborhood Index**

The analysis completed by the Community Development Department is summarized in part in the Neighborhood Index. The Neighborhood Index was developed by the Community Development Department to gauge the level of change that has taken place in the older parts of Manhattan. The Index is based on looking at a number of factors including: ownership and occupancy patterns, such as owner occupied versus rental structures; family versus non-family distribution; family make-up, looking at the number of school aged children; and the type of residential structures in an area, (i.e. single family, duplex or apartments). The purpose of all the detailed analysis was to help identify those areas that still have a predominant single-family character (high neighborhood index) that would benefit from down zoning and the application of the TNO District, as well as other areas that have changed to such an extent that they are predominantly non-family oriented rental areas, which may benefit from up zoning and redevelopment, i.e. the recently completed M-FRO redevelopment area (*see attached Neighborhood Index map*).

The Neighborhood Index, as well as further detailed evaluation of the northwestern portion of the Phase 3 area, identified transitional blocks between the Phase 4 M-FRO, Multi-Family Redevelopment Overlay Area and these Phase 3 areas that have predominantly single-family neighborhood characteristics. These transitional areas can serve an important role as a buffer between the higher density M-FRO redevelopment area to the west and the lower density, family oriented neighborhoods to the east.

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Although the Phase 3 rezoning proposals are based primarily on the Neighborhood Index, other factors also played an important role. These other considerations include, the juxtaposition of the Sub Areas to adjoining land uses and neighborhoods; the ability to create viable neighborhoods that would continue to sustain their traditional character and the affordable housing stock; housing conditions; neighborhood character and input from the different community groups and individuals that participated in this process.

Neighborhood Character and Affordable Housing

The Phase 3 area still has a high percentage of original, unconverted single-family structures, and also a high percentage of owner occupied homes. The majority of the blocks in the Phase 3 area, and Sub Area A and B in particular, exhibit single-family neighborhood characteristics. The findings of the neighborhood study show that the Single-Family Residential zoning of Sub Area A should be retained, and that Sub Area B should be down zoned in order to effectively protect the integrity of these neighborhoods. During the consideration and approval of the Phase 4 M-FRO rezoning proposals, it was concluded that Phase 3 Sub Areas A and B contain a substantial number of blocks where single-family neighborhood characteristics are still very much in evidence. At the time the findings in the Phase 4 Staff reports and Cover Memorandum concluded that Phase 3 Sub Area B should be downzoned in order to effectively protect the integrity of this neighborhood. Similarly, it was found that Sub Area A was zoned for one and two family dwellings from 1925, until 1969 when it was rezoned R-1, Single-Family Residential District, and should be maintained as such and not be up-zoned. This conclusion was supported by the City Commission's final approval of the Phase 4 M-FRO redevelopment area rezonings on October 21, 2003.

If protected and stabilized, these areas can help play an important role in addressing the affordable family housing sector of Manhattan's housing market. Older neighborhoods have become highly desirable for residents looking for a walkable, pedestrian-friendly environment with mature, tree-lined streets and a convenient, centralized location with neighborhood amenities such as schools, parks and shopping. Manhattan's older neighborhoods meet these criteria, and where appropriate, should be maintained and protected against further intensification through down zoning and the application of the TNO District.

Development Intensity

Many of the older neighborhoods contain the highest population densities in Manhattan (*see Map of Population Density By Block Group*). According to 2000 Census data, these densities vary between six (6) and twenty five (25) persons per acre, as compared to two (2) to eight (8) persons per acre in the other neighborhoods in Manhattan. Neighborhood deterioration, traffic congestion, lack of parking and other neighborhood concerns can be directly or indirectly attributed to the population densities in these neighborhoods. They

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have reached or exceeded their development capacity, if they are to remain attractive to families for affordable housing.

Housing Needs

An analysis of the Riley County appraised values of residential properties (i.e. single family – 4-plexes) in Manhattan clearly shows the distribution of properties with the lowest appraised values (an assessed value of less than \$75,000) to be located mainly in two geographic areas of the City: the Northview area; and the traditional neighborhoods of Manhattan. The Phase 3 area contains a high concentration of properties with the lowest evaluation in Manhattan (*see Map of Total Appraised Value*). The assessed values of residential properties, although not directly indicative of sales prices, does provide an indication of those areas of existing housing stock that have the greatest potential for helping to address both the affordable rental and owner occupied housing needs of Manhattan.

The Housing Element of the Comprehensive Plan identified the potential owner and rental housing demand for the City for the five-year period from 2000 to 2005. It was estimated that a potential demand exists for 2,902 dwelling units, including an estimated 918 owner and 1,984 rental units. It was estimated that this potential demand consists of up to 953 affordable rental units, and 213 affordable owner units, for "...persons/families of 80 percent of median income or less including both traditional and non-traditional students" (*Housing Manhattan: Planning for the Future, 2000*). This affordable housing demand includes up to "...632 rental units for families of low- to moderate- income especially young families and households with a single-parent." The Manhattan Urban Area Comprehensive Plan states that Manhattan's economy is dominated by 15,000 public sector jobs, and that: "Most of the labor force is employed in occupations having average annual incomes of less than \$50,000." (*Manhattan Urban Area Comprehensive Plan - Appendix B, page B-7.*) The traditional neighborhoods will continue to satisfy a major portion of the affordable owner and rental housing needs of students, as well as the growing demand of first time homebuyers, low-income families and single parent families.

Population Trends & Housing Demand

Manhattan's population is projected to grow at a rate of 1.31% annually over the next 20 years (*Manhattan Urban Area Comprehensive Plan*). Most of this growth will be a result of growth in the permanent resident, and not the student, population of Manhattan. According to the KSU Office of Planning and Analysis, the University is projecting its student population to show no significant increase beyond the current 22,000-enrollment level over the next ten years. Based on these trends, student-housing demand will likely remain near present levels, or possibly decline as new units come online. Therefore, the greatest potential future housing demand will come from the non-student population of Manhattan, which will be mainly responsible for the projected rate of growth of 1.31%.

#### Availability of Infill Redevelopment Areas

The Traditional Neighborhood study proposals, developed by the Community Development Department for zoning changes (down-zoning, TNO, up-zoning and M-FRO) throughout the traditional neighborhoods, attempts to strike a balance between protecting the character of these neighborhoods; providing realistic opportunities for higher density redevelopment that is close to the KSU Campus; and retaining the potential for some intensification in the significant areas where the underlying existing zoning will remain unchanged. In the Phase 4 rezoning 17.5 blocks were rezoned to R-3/M-FRO, Multiple-Family Residential District with Multi-Family Redevelopment Overlay, creating extensive opportunity for redevelopment and intensification. The significant areas where the underlying zoning is proposed to remain unchanged includes 316 parcels zoned R-2, Two-Family Residential District, and 516 parcels zoned R-M, Four-Family Residential District. These areas will continue to allow for the development of duplexes, and three and four-plexes respectively (*See map of R-2 & R-M Remaining In Place*).

#### TNO, Traditional Neighborhood Overlay District

In order to provide maximum protection of the traditional neighborhood character in the Phase 3 area, it is proposed that the TNO District be applied to all four of the Phase 3 sub areas. The Compatibility Standards of the TNO District will ensure that new infill residential buildings, and additions or modifications to existing residential buildings, incorporate basic design and site layout elements characteristic of homes in the traditional neighborhoods (*see attached TNO District wording*). The TNO District will be used in conjunction with the underlying R-1, R-2 and R-M Residential Districts of Sub Areas A, B, C and D.

#### Down Zoning and TNO

Down zoning is one tool that can help improve the stability of the more family oriented neighborhoods of the older parts of Manhattan. Ever since zoning was first established in Manhattan in 1926, many of the older neighborhood areas were originally designated for a mixture of single family and duplex uses, or multi-family uses. Over the years, zoning classifications in different areas changed to reflect changing conditions and community desires. Today, there are older neighborhood areas, such as Phase 3 - Sub Area B, which are lower density or more single-family oriented, but are still zoned as a higher intensity R-2, Two-Family Residential District. This higher intensity zoning over the years has permitted new infill development and single-family conversions to duplexes, which in some cases has adversely impacted the stability of older traditional neighborhoods. Since potential homeowners look at zoning as one factor in buying property, higher intensity zoning can deter single-family buyers, who feel uncertain about future uses and stability in the area. In addition, families that are looking for affordable rental housing options have the same concerns about neighborhood stability and land use conflicts that homebuyers have. Down zoning Sub Area B to R-1, Single-Family Residential District with the TNO

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District, to be more reflective of its historic and predominant existing character, will prohibit future higher intensity development and give greater confidence to existing and potential homeowners and renters, who desire to live in this centralized core neighborhood. Applying the TNO District to the existing zoning in Sub Areas C and D will also help stabilize those areas through use of the Compatibility Standards, while still providing some opportunities for intensification in these R-2 and R-M zoning districts.

**ALTERNATIVES**

It should be noted that the actual area that ends up being rezoned, could be reduced in size from the area that has been advertised for this public hearing. However, the area cannot be expanded beyond what was advertised for this hearing, without re-advertising and conducting another public hearing.

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

1. Recommend approval of the rezonings of Phase 3 - Sub Areas A, B, C and D, as recommended by City Administration, based on the findings in the Cover Memorandum and the Sub Area Staff Reports.
2. Recommend approval of rezoning a modified smaller area, based on specifically stated findings addressing the 13 zoning standards.
3. Recommend denial of rezoning certain portions of the advertised area, based on specifically stated findings addressing the 13 zoning standards.
4. Table the rezoning to a specific date for specifically stated reasons, and provide further direction to City Administration.

**RECOMMENDATION**

City Administration recommends that the Manhattan Urban Area Planning Board recommend approval of the proposed rezonings of Phase 3 - Sub Areas A, B, C and D as recommended, based on the findings in the attached Staff Reports for each sub area, and on the findings in this Cover Memorandum. *(See Staff Reports for specific motions).*

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*Attachment No. 2*

Attachments:

- a) Project Chronology
- b) Traditional Neighborhood Study Area Map
- c) Implementation Phases Map
- d) Phase 3 Sub Area Map
- e) Map of Historic Properties
- f) Neighborhood Index Maps
- g) Map of Population Density by Block Group
- h) Map of Total Appraised Value
- i) Map of R-M and R-2 Districts remaining in place
- j) TNO, Traditional Neighborhood Overlay District wording
- k) R-1, Single-Family Residential District wording
- l) Map of existing zoning
- m) Comprehensive Plan Map with Sub Areas shown
- n) Staff Reports for Phase 3 - Sub Areas A, B, C and D

*Attachment No. 3*

***STAFF REPORT***  
***PHASE 3, SUB AREA A***

**ON AN APPLICATION TO REZONE PROPERTY**

**FROM:** R-1, Single-Family Residential District

**TO:** R-1/TNO: Single-Family Residential District with Traditional Neighborhood Overlay District

**APPLICANT:** Manhattan Urban Area Planning Board

**ADDRESS:** 1101 Poyntz Avenue

**OWNERS:** Owners of record per ownership list

**ADDRESSES:** Per ownership list

**LOCATION:** Referred to as Phase 3, Sub Area A and separated into:

**Tract 1**

Consists of the sixteen (16) lots bounded by Claflin Road on the north; N. 11<sup>th</sup> Street on the west; Ratone Street on the south; and N. 10<sup>th</sup> Street on the east.

**Tract 2**

Consists of eighty-seven (87) lots generally located east of N. 9<sup>th</sup> Street; north of the alley between Thurston Street and Bertrand Street; west of N. 5<sup>th</sup> Street; and south of a line along the mid-block north of Ratone Street, Ratone Street, Ratone Lane and an extension of Ratone Lane along the mid-block north of Bertrand Street.

**AREA:** Tract 1: 3.89 acres; Tract 2: 15.55 acres.

**DATE OF PUBLIC NOTICE PUBLICATION:** Monday, January 12, 2004

**DATE OF PUBLIC HEARING: PLANNING BOARD:** Monday, February 2, 2004  
**CITY COMMISSION:** Tuesday, February 17, 2004

*Attachment No. 3*

**EXISTING USE:** There are 103 properties in the area. The vast majority of properties within Sub Area A are single-family structures, most of which continue to be used as single-family homes while some have been converted into two-family dwellings. Two-family dwellings are non-conforming uses within the R-1 District.

**PHYSICAL AND ENVIRONMENTAL CHARACTERISTICS:** This is part of the older well-established grid street neighborhood area of the community. The front yards of most residences are maintained as landscaped green space along tree lined streets, with parking areas generally located in the rear yard with access off the alley. Many of the residential structures are sited relatively close to the front property line in comparison to homes in newer residential subdivisions.

**SURROUNDING LAND USE AND ZONING:**

**Tract 1**

- (1) **NORTH:** R, Single-Family Residential District: Single-family homes.
- (2) **SOUTH:** R-2, Two-Family Residential District: Includes mostly single-family homes, as well as several single-family structures converted into rental units.
- (3) **EAST:** R-1 Single-Family Residential District: Includes a mixture of single-family homes and single-family structures converted into rental units.
- (4) **WEST:** R-3/M-FRO, Multiple-Family Residential District with Multi-Family Redevelopment Overlay District: Includes a mixture of single-family homes and single-family structures converted into rental units.

**Tract 2**

- (1) **NORTH:** R-1, Single-Family Residential District: Single-family homes and vacant land (Bluemont Hill)
- (2) **SOUTH:** R-2, Two-Family Residential District: Includes mostly single-family homes, as well as several single-family structures converted into rental units and some new duplex structures.
- (3) **EAST:** R-1 Single-Family Residential District: Goodnow Park
- (4) **WEST:** R-2, Two-Family Residential District: Includes mostly single-family homes, as well as several single-family structures converted into rental units and some new duplex structures.

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**GENERAL NEIGHBORHOOD CHARACTER:** Sub Area A consists of well-established residential neighborhoods with mature trees and tree-lined streets. The area consists predominantly of single-family residential structures, most of which continue to be used as single-family homes. Within Tract 1, properties do not have alley access. Within Tract 2, most properties have alley access.

**SUITABILITY OF SITE FOR USES UNDER CURRENT ZONING:** Sub Area A is currently zoned R-1, Single-Family Residential District which is the most suitable classification for land uses allowed under that classification and which have developed in this area. The current R-1 District is proposed to be retained, and will therefore continue to be the most suitable zoning for this Sub Area. The TNO, Traditional Neighborhood Overlay District will be used in conjunction with the underlying R-1, Single-Family Residential district in Sub Area A.

**COMPATIBILITY OF PROPOSED DISTRICT WITH NEARBY PROPERTIES AND EXTENT TO WHICH IT MAY HAVE DETRIMENTAL AFFECTS:** The TNO District will add compatibility standards, for new infill residential buildings and additions or modifications to existing residential buildings, which incorporate basic design and site layout elements characteristic of existing homes in these neighborhoods. The TNO District will help maintain the established residential character in the traditional neighborhood that Sub Area A reflects and will be compatible with the characteristics associated with those adjoining neighborhoods and nearby properties that have similar traditional neighborhood characteristics.

The adjacent neighborhoods to the north of Tracts 1 and 2 consist mainly of single-family homes built after the establishment of the traditional neighborhoods, and the area to the west of Tract 2 is zoned to allow for higher-density residential development. While these areas may have a different neighborhood character than that of Sub Area A, the maintenance of traditional neighborhood characteristics within Sub Area A should not create any adverse impacts on those areas.

**CONFORMANCE WITH COMPREHENSIVE PLAN:** The rezoning is in conformance with the Comprehensive Plan for the reasons indicated below.

The Comprehensive Plan shows Sub Area A as RLM, Residential Low to Medium density. The RLM designation is a residential category with a density range of less than one dwelling unit/acre up to eleven dwelling units per net acre. The R-1 District is a low-density designation.

*Attachment No. 3*

*Chapter 4, Policy UR 6: Design of Infill and Redevelopment on page 4-6: provides the policy support for the proposed rezoning.*

“Infill and redevelopment shall be designed in a manner that is sensitive to and reflects the character of the surrounding neighborhood. Important design considerations include building scale, mass, roof form, height, and orientation, parking location, lot coverage, architectural character, and landscape elements.”

Chapter 9 of the Comprehensive Plan has specific Goals and Principles dealing with Housing and Neighborhoods that apply to the traditional neighborhoods of Manhattan:

*“Foster the stabilization of Manhattan’s established and older core neighborhoods.*

- *Maintain, conserve, rehabilitate and/or redevelop the housing and neighborhoods in the older areas of Manhattan, including the downtown.*
- *Identify and foster initiatives to maintain or enhance the quality of life in existing neighborhoods throughout the community.”*

*The emphasis in these stated goals and principles is the protection of the older neighborhood fabric and preserving and improving the quality of life of existing neighborhoods such as those in Sub Area A.*

The Compatibility Standards of the TNO District also help implement the Community Design goal and guiding principle as stated in Chapter 11, page 11-1 of the Comprehensive Plan:

*“Guide the quality of development with building and site design guidelines as appropriate.*

- *Encourage infill redevelopment that is compatible with and enhances the surrounding neighborhood character.”*

**ZONING HISTORY AND LENGTH OF TIME VACANT AS ZONED:** The area has been subject to zoning regulations since 1926. There were homes and other buildings in the area, prior to that date.

1926 - 1965: A, First Dwelling House: One and Two Family Dwellings (Note: Portions of Tract 1 were outside the City Boundary until the 1940s).

1969-present: R-1, Single-Family Residential.

**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 insure compatibility; and to protect property values.

The R-1, Single-Family Residential District is designed to provide a dwelling zone at a density no greater than one dwelling unit per 6,500 square feet.

The proposed TNO District is intended to conserve the traditional character of the older neighborhoods through Compatibility Standards. The TNO District maintains most of the requirements of the underlying zoning district and adds the Compatibility Standards, specifically designed to address the issues unique to the older neighborhoods of Manhattan. The Compatibility Standards require that new infill residential buildings, and additions or modifications to existing residential buildings, incorporate basic design and site layout elements characteristic of homes in the traditional neighborhoods. The TNO is used in conjunction with an underlying residential district. (Note: The definitions pursuant to Section 4-111 (G) shall apply to the TNO District.)

The proposed rezoning is consistent with the Zoning Regulations.

**RELATIVE GAIN TO THE PUBLIC HEALTH, SAFETY AND WELFARE THAT DENIAL OF THE REQUEST WOULD ACCOMPLISH, COMPARED WITH THE HARDSHIP IMPOSED UPON THE APPLICANT:** Denial of this rezoning proposal would realize no relative gain to the public health, safety and welfare. The intent of the rezoning is to protect and strengthen the single-family character of the neighborhood and reduce the potential for incompatible infill residential buildings and site layout. Denial of the request would potentially jeopardize the long-term preservation of the traditional neighborhood character of Sub Area A.

**ADEQUACY OF PUBLIC FACILITIES AND SERVICES:** Adequate public streets, sanitary sewer and water are available to serve the area. There are sidewalks throughout the area. Public alleys are available for access for off-street parking to serve the majority of the area. No public improvements are required as a part of the rezoning.

**OTHER APPLICABLE FACTORS:** The Cover Memorandum outlines additional information on the community process used to carryout the two-year study of the traditional neighborhood areas, which include the Phase 3 Sub Areas. Additional information on the development and findings of the Neighborhood Index, and other factors that were considered during the neighborhood analysis, are detailed in the Cover Memorandum and helped to form the reasoning upon which this rezoning proposal is based (*see Cover Memorandum and related attachments*).

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**STAFF COMMENTS:** City Administration recommends approval of the proposed rezoning of Phase 3, Sub Area A from R-1, Single-Family Residential District to R-1/TNO, Single-Family Residential District with Traditional Neighborhood Overlay District, based on the findings in this Staff Report and the Cover Memorandum.

### **ALTERNATIVES:**

2. Recommend approval of the proposed rezoning of Sub Area A from R-1, Single-Family Residential District, to R-1/TNO, Single-Family Residential District with Traditional Neighborhood Overlay District, based on the findings in the Staff Report and the Cover Memorandum.
3. Recommend denial of the proposed R-1/TNO, Single-Family Residential District with Traditional Neighborhood Overlay District, based on specifically stated findings addressing the 13 zoning standards.
4. Recommend a reduced extent of rezoning to R-1/TNO, Single-Family Residential District with Traditional Neighborhood Overlay District, based on specifically stated findings addressing the 13 zoning standards.
5. Table the proposed rezoning to a specific date, for specifically stated reasons and provide further direction to City Administration.

### **POSSIBLE MOTION:**

The Manhattan Urban Area Planning Board recommends approval of the proposed rezoning of Phase 3, Sub Area A from R-1, Single-Family Residential District, to R-1/TNO, Single-Family Residential District with Traditional Neighborhood Overlay District, based on the findings in the Phase 3, Sub Area A Staff Report and the Cover Memorandum.

**PREPARED BY:** Cameron Moeller, AICP, Planner

**DATE:** January 22, 2004  
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*Attachment No. 4*

***STAFF REPORT***  
***PHASE 3, SUB AREA B***

**ON AN APPLICATION TO REZONE PROPERTY**

**FROM:** R-2, Two-Family Residential District

**TO:** R-1/TNO: Single-Family Residential District with Traditional Neighborhood Overlay District

**APPLICANT:** Manhattan Urban Area Planning Board

**ADDRESS:** 1101 Poyntz Avenue

**OWNERS:** Owners of record per ownership list

**ADDRESSES:** Per ownership list

**LOCATION:** Referred to as Phase 3, Sub Area B, which is generally bounded on the east by a line mid-block between N. 3<sup>rd</sup> Street and N. 4<sup>th</sup> Street; on the south by Vattier Street, the alley south of Vattier Street, the alley north of Vattier Street, and the alley south of Thurston Street; on the west by N. 9<sup>th</sup> Street and N. 10<sup>th</sup> Street; and on the north by Claflin Road, the alley north of Thurston Street and Thurston Street.

**AREA:** 44.19 acres

**DATE OF PUBLIC NOTICE PUBLICATION:** Monday, January 12, 2004

**DATE OF PUBLIC HEARING: PLANNING BOARD:** Monday, February 2, 2004  
**CITY COMMISSION:** Tuesday, February 17, 2004

**EXISTING USE:** There are 250 properties in the area. The vast majority of properties within Sub Area B are single-family structures, most of which continue to be used as single-family homes while some have been converted into apartment units. There are a limited number of duplex structures within the area, many of which have been built within the past two to three years.

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**PHYSICAL AND ENVIRONMENTAL CHARACTERISTICS:** This is part of the older well-established grid street neighborhood area of the community. The front yards of most residences are maintained as landscaped green space along tree lined streets, with parking areas generally located in the rear yard with access off the alley. Many of the residential structures are sited relatively close to the front property line in comparison to homes in newer residential subdivisions.

**SURROUNDING LAND USE AND ZONING:**

- (3) **NORTH:** R-1, Single-Family Residential District: Consists mainly of single-family structures, most of which continue to be used as single-family homes.
- (4) **SOUTH:** R-2, Two-Family Residential District: Consists mainly of single-family structures, with a mix of those that continue to be used as single-family homes and those that have been converted into two-family dwelling units
- (4) **EAST:** C-5 Highway Service Commercial District: Strip commercial development along North 3<sup>rd</sup> Street.
- (5) **WEST:** R-1, Single-Family Residential District; R-2, Two-Family Residential District; and R-3/M-FRO, Multiple Family Residential with Multi-Family Redevelopment Overlay: Includes a range of residential uses, including single-family homes, two-family dwellings, and two and three story apartment buildings.

**GENERAL NEIGHBORHOOD CHARACTER:** Sub Area B consists of well-established residential neighborhoods with mature trees and tree-lined streets. The area consists predominantly of single-family residential structures, most of which continue to be used as single-family homes. Most of the properties have access off alleys.

**SUITABILITY OF SITE FOR USES UNDER CURRENT ZONING:** Sub Area B is currently zoned R-2, Two-Family Residential District, and while it was generally suitable for uses allowed under that classification, the continued conversion of this predominantly single family area to more intensive duplex residential uses has tended to have a destabilizing effect. Single-family structures with a maximum of four unrelated people have been replaced with duplexes that could potentially have eight unrelated people and eight vehicles. There is concern over the changing demographic character brought on by these conversions and replacement of single family homes, which may ultimately lead to a general loss of affordable housing, a loss of families with school aged children, and further closings of schools within the traditional neighborhoods.

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**COMPATIBILITY OF PROPOSED DISTRICT WITH NEARBY PROPERTIES AND EXTENT TO WHICH IT MAY HAVE DETRIMENTAL AFFECTS:** The proposed rezoning to the R-1 District will help to stabilize the existing single-family character of Sub Area B, with the TNO District adding compatibility standards, for new infill residential buildings and additions or modifications to existing residential buildings, which incorporate basic design and site layout elements characteristic of existing homes in these neighborhoods.

The proposed R-1/TNO District will be compatible with the characteristics associated with the adjoining neighborhoods and nearby properties, which have similar traditional neighborhood characteristics. The lower intensity of new residential uses established in the area under the proposed R-1 District, combined with the TNO District provisions for compatibility, will help to stabilize this sub area. This will help to reduce or eliminate potential detrimental impacts on the surrounding nearby properties.

**CONFORMANCE WITH COMPREHENSIVE PLAN:** The rezoning is in conformance with the Comprehensive Plan for the reasons indicated below.

The Comprehensive Plan shows Sub Area B as RLM, Residential Low to Medium density. The RLM designation is a residential category with a density range of less than one dwelling unit/acre up to eleven dwelling units per net acre. The R-1 District is a low-density designation.

*Chapter 4, Policy UR 6: Design of Infill and Redevelopment on page 4-6: provides the policy support for the proposed rezoning.*

“Infill and redevelopment shall be designed in a manner that is sensitive to and reflects the character of the surrounding neighborhood. Important design considerations include building scale, mass, roof form, height, and orientation, parking location, lot coverage, architectural character, and landscape elements.”

Chapter 9 of the Comprehensive Plan has specific Goals and Principles dealing with Housing and Neighborhoods that apply to the traditional neighborhoods of Manhattan:

*“Foster the stabilization of Manhattan’s established and older core neighborhoods.*

- *Maintain, conserve, rehabilitate and/or redevelop the housing and neighborhoods in the older areas of Manhattan, including the downtown.*
- *Identify and foster initiatives to maintain or enhance the quality of life in existing neighborhoods throughout the community.”*

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*The emphasis in these stated goals and principles is the protection of the older neighborhood fabric and preserving and improving the quality of life of existing neighborhoods such as those in Sub Area B.*

The Compatibility Standards of the TNO District also help implement the Community Design goal and guiding principle as stated in Chapter 11, page 11-1 of the Comprehensive Plan:

*“Guide the quality of development with building and site design guidelines as appropriate.*

- *Encourage infill redevelopment that is compatible with and enhances the surrounding neighborhood character.”*

**ZONING HISTORY AND LENGTH OF TIME VACANT AS ZONED:** The area has been subject to zoning regulations since 1926. There were homes and other buildings in the area, prior to that date.

1926 - 1937: A, First Dwelling House: One and Two Family Dwellings.

1937 - 1965: A, First Dwelling House: One and Two Family Dwellings (the majority of Sub Area B).

B, Second Dwelling House (a small portion of Sub Area B): One and Two Family Dwellings; Apartment Houses.

1965 - 1969: A, Single and Two-Family Dwelling.

1969 - 1978: R-2, Two-Family Residential  
R-1, Single-Family Residential (north of Ratone Street)

1987 - 2004: R-2, Two-Family Residential

**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 R-1, Single-Family Residential District is designed to provide a dwelling zone at a density no greater than one dwelling unit per 6,500 square feet.

In the case of Sub Area B, the TNO District will also be applied along with the rezoning to the R-1 District. The proposed TNO District is intended to conserve the traditional

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character of the older neighborhoods through Compatibility Standards. The TNO District maintains most of the requirements of the underlying zoning district and adds the Compatibility Standards, specifically designed to address the issues unique to the older neighborhoods of Manhattan. The Compatibility Standards require that new infill residential buildings, and additions or modifications to existing residential buildings, incorporate basic design and site layout elements characteristic of homes in the traditional neighborhoods. The TNO District is designed to be used in conjunction with an underlying residential district. (Note: The definitions pursuant to Section 4-111 (G) shall apply to the TNO District.)

Nonconforming Uses: Article VIII of the Zoning Regulations addresses nonconforming uses. Section 8-405 (E) provides for reconstruction of legally existing nonconforming residential properties as follows:

*“When any residential dwelling, or dwellings, located in a residential district are legally nonconforming and are damaged or destroyed by any means, other than the willful act of the owner, such structure may be restored so that such use may continue if a building permit is issued and restoration is begun within one (1) year of the damage, is diligently pursued to completion, and no greater number of living units are provided than existed prior to the damage and no greater nonconformity exists than existed prior to the damage.”*

Article VIII also addresses issues such as normal maintenance and repair and modifications other than normal maintenance and repair, such as expansion of the dwelling or modernization of the building. Normal maintenance and incidental repair of a structure, which does not expand, enlarge or increase the degree of the legal nonconformity, are allowed.

In addition, as per Section 8-501, any legally nonconforming use can utilize the conditional use process to apply to modify the nonconforming use, through the public hearing process with the Board of Zoning Appeals.

The proposed rezoning is consistent with the intent of the Zoning Regulations.

**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. The intent of the proposed rezoning to R-1/TNO District is to stabilize and strengthen the single-family and traditional neighborhood characteristics of the Sub Area and reduce the potential development

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intensity from what is possible under the current zoning. Denial of the rezoning would likely promote continued destabilization of this area and potentially jeopardize the long-term preservation of the traditional neighborhood character and affordable single-family housing stock of Sub Area B.

**ADEQUACY OF PUBLIC FACILITIES AND SERVICES:** Adequate public streets, sanitary sewer and water are available to serve the site. There are sidewalks throughout the area. No public improvements are required as a part of the rezoning.

The proposed rezoning would limit potential future intensification, which will ensure continued long-term adequacy of public facilities and services.

**OTHER APPLICABLE FACTORS:** The Cover Memorandum outlines additional information on the community process used to carryout the two-year study of the traditional neighborhood areas, which include the Phase 3 Sub Areas. Additional information on the development and findings of the Neighborhood Index, and other factors that were considered during the neighborhood analysis, are detailed in the Cover Memorandum and helped to form the reasoning upon which this rezoning proposal is based (*see Cover Memorandum and related attachments*).

**STAFF COMMENTS:** City Administration recommends approval of the proposed rezoning of Phase 3, Sub Area B from R-2, Two-Family Residential District to R-1/TNO, Single-Family Residential District with Traditional Neighborhood Overlay District, based on the findings in this Staff Report and the Cover Memorandum.

**ALTERNATIVES:**

1. Recommend approval of the proposed rezoning of Sub Area B from R-2, Two-Family Residential District, to R-1/TNO, Single-Family Residential District with Traditional Neighborhood Overlay District, based on the findings in the Staff Report and the Cover Memorandum.
2. Recommend denial of the proposed R-1, Single-Family Residential District and/or the TNO, Traditional Neighborhood Overlay District, based on specifically stated findings addressing the 13 zoning standards.
3. Recommend a reduced extent of rezoning to R-1, Single-Family Residential District and/or the TNO, Traditional Neighborhood Overlay District, based on specifically stated findings addressing the 13 zoning standards.

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4. Table the proposed rezoning to a specific date, for specifically stated reasons and provide further direction to City Administration.

**POSSIBLE MOTION:**

The Manhattan Urban Area Planning Board recommends approval of the proposed rezoning of Phase 3, Sub Area B from R-2, Two-Family Residential District, to R-1/TNO, Single-Family Residential District with Traditional Neighborhood Overlay District, based on the findings in the Phase 3, Sub Area B Staff Report and the Cover Memorandum.

**PREPARED BY:** Cameron Moeller, AICP, Planner

**DATE:** January 22, 2004  
04002

***STAFF REPORT***  
***PHASE 3, SUB AREA C***

**ON AN APPLICATION TO REZONE PROPERTY**

**FROM:** R-2, Two-Family Residential District

**TO:** R-2/TNO: Two-Family Residential District with Traditional Neighborhood Overlay District

**APPLICANT:** Manhattan Urban Area Planning Board

**ADDRESS:** 1101 Poyntz Avenue

**OWNERS:** Owners of record per ownership list

**ADDRESSES:** Per ownership list

**LOCATION:** Referred to as Phase 3, Sub Area C and separated into:

**Tract 1**

Consists of thirty-eight (38) lots generally bounded on the east by N. 10<sup>th</sup> Street; on the south by the alley south of Thurston Street; on the west by N. 11<sup>th</sup> Street; and on the north by Ratone Street.

**Tract 2**

Consists of one-hundred fifty (150) lots generally bounded by N. 4th Street on the east; Fremont Street and Vattier Street on the south; N. 6<sup>th</sup> Street and N.9<sup>th</sup> Street on the west; and the alley north of Vattier Street, the alley south of Vattier Street and Vattier Street on the north.

**AREA:** Tract 1: 6.83 acres: Tract 2: 27.07 acres.

**DATE OF PUBLIC NOTICE PUBLICATION:** Monday, January 12, 2004

**DATE OF PUBLIC HEARING: PLANNING BOARD:** Monday, February 2, 2004  
**CITY COMMISSION:** Tuesday, February 17, 2004

**EXISTING USE:** There are 188 properties in the area. The majority of properties within Sub Area C are single-family structures, with a mixture of those that continue to be used as single-family homes and those that have been converted into two-family dwelling units. There are also a limited number of duplex structures within the area.

**PHYSICAL AND ENVIRONMENTAL CHARACTERISTICS:** This is part of the older well-established grid street neighborhood area of the community. The front yards of most residences are maintained as landscaped green space along tree lined streets, with parking areas generally located in the rear yard with access off the alley. Many of the residential structures are sited relatively close to the front property line in comparison to homes in newer residential subdivisions.

**SURROUNDING LAND USE AND ZONING:**

**Tract 1**

- (1) **NORTH:** R-1, Single-Family Residential District (proposed to be rezoned to R-1/TNO): Single-family homes and single-family homes structures converted into two-family dwelling units.
- (2) **SOUTH:** R-3/M-FRO, Multiple-Family Residential with Multi-Family Redevelopment Overlay District: Includes a mix of residential uses, including single-family homes, duplexes, single-family structures converted into rental units, and two and three-story apartments.
- (3) **EAST:** R-2 Two-Family Residential District (proposed to be rezoned to R-1/TNO): Includes mostly single-family homes with some single-family homes structures that have been converted into two-family dwelling units.
- (4) **WEST:** R-3/M-FRO, Multiple-Family Residential District with Multi-Family Redevelopment Overlay District: Includes a mix of residential uses, including single-family homes, duplexes, single-family structures converted into rental units, and two and three-story apartments.

**Tract 2**

- (1) **NORTH:** R-2, Two-Family Residential District: Includes mostly single-family homes with some single-family homes structures that have been converted into two-family dwelling units and some duplex structures.
- (2) **SOUTH:** R-M, Four-Family Residential District: Includes a range of residential uses, the majority of properties being single-family homes and single-family homes that have been converted into rental apartments.

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- (3) **EAST:** C-5 Highway Service Commercial District (north of Bluemont Avenue): Strip commercial development along North 3<sup>rd</sup> Street.
- (4) PUD (between Bluemont Avenue and Moro Street): Walgreen's.
- (5) R-2, Two-Family Residential District (south of Moro Street): Includes a mix of residential uses, with most being single-family homes.
- (6) **WEST:** R-3/M-FRO, Multiple-Family Residential District with Multi-Family Redevelopment Overlay District: Includes a mix of residential uses, including single-family homes, duplexes, single-family structures converted into rental units, and two and three-story apartments.

**GENERAL NEIGHBORHOOD CHARACTER:** Sub Area C consists of well-established residential neighborhoods with mature trees and tree-lined streets. The area consists predominantly of single-family residential structures, the majority of which continue to be used as single-family homes. Most of the properties have access off alleys.

**SUITABILITY OF SITE FOR USES UNDER CURRENT ZONING:** Sub Area C is currently zoned R-2, Two-Family Residential District, and while it was generally suitable for uses allowed under that classification, the continued conversion of this predominantly single family area to more intensive duplex residential uses has tended to have a destabilizing effect. Single-family structures with a maximum of four unrelated people have been replaced with duplexes that could potentially have eight unrelated people and eight vehicles. There is concern over the changing demographic character brought on by these conversions and replacement of single family homes, which may ultimately lead to a general loss of affordable housing and of families with school aged children and the closing of neighborhood schools.

**COMPATIBILITY OF PROPOSED DISTRICT WITH NEARBY PROPERTIES AND EXTENT TO WHICH IT MAY HAVE DETRIMENTAL AFFECTS:** The proposed addition of the TNO District would ensure that new infill residential buildings and additions or modifications to existing residential buildings, would incorporate basic design and site layout elements characteristic of existing homes in these neighborhoods and reduce the intensity of development. The TNO District will reduce the lot coverage permitted by the underlying R-2 District (reduced from 35% to 30%) and also places some limitations on the size of the second dwelling unit and number of bedrooms (no greater than 600 square feet and no more than two bedrooms), so that it is truly an accessory dwelling unit.

The proposed R-2/TNO, Two-Family Residential District with Traditional Neighborhood Overlay District will be compatible with the characteristics associated with the traditional neighborhoods and adjoining neighborhoods. The lower intensity of new residential uses

*Attachment No. 5*

established in the area under the proposed R-2/TNO District, will allow for moderate increases in development intensity, thereby providing an incentive for redevelopment and investment, and at the same time help to minimize potential impacts on the neighborhood and surrounding properties.

**CONFORMANCE WITH COMPREHENSIVE PLAN:** The rezoning is in conformance with the Comprehensive Plan for the reasons indicated below.

The Comprehensive Plan shows Sub Area C as RLM, Residential Low to Medium density. The RLM designation is a residential category with a density range of less than one dwelling unit/acre up to eleven dwelling units per net acre. The R-2 District is a low-density designation.

*Chapter 4, Policy UR 6: Design of Infill and Redevelopment on page 4-6: provides the policy support for the proposed rezoning.*

“Infill and redevelopment shall be designed in a manner that is sensitive to and reflects the character of the surrounding neighborhood. Important design considerations include building scale, mass, roof form, height, and orientation, parking location, lot coverage, architectural character, and landscape elements.”

Chapter 9 of the Comprehensive Plan has specific Goals and Principles dealing with Housing and Neighborhoods that apply to the traditional neighborhoods of Manhattan:

*“Foster the stabilization of Manhattan’s established and older core neighborhoods.*

- *Maintain, conserve, rehabilitate and/or redevelop the housing and neighborhoods in the older areas of Manhattan, including the downtown.*
- *Identify and foster initiatives to maintain or enhance the quality of life in existing neighborhoods throughout the community.”*

*The emphasis in these stated goals and principles is the protection of the older neighborhood fabric and preserving and improving the quality of life of existing neighborhoods such as those in Sub Area C.*

The Compatibility Standards of the TNO District also help implement the Community Design goal and guiding principle as stated in Chapter 11, page 11-1 of the Comprehensive Plan:

*“Guide the quality of development with building and site design guidelines as appropriate.*

*Attachment No. 5*

- *Encourage infill redevelopment that is compatible with and enhances the surrounding neighborhood character."*

**ZONING HISTORY AND LENGTH OF TIME VACANT AS ZONED:** The area has been subject to zoning regulations since 1926. There were homes and other buildings in the area, prior to that date.

**Tract 1**

1925: A, First Dwelling House: One and Two Family Dwellings

1937 - 1965: A, First Dwelling House: One and Two Family Dwellings  
*B, Second Dwelling House: One and Two Family Dwellings, Apartment Houses*

1969 - 1987: R-2, Two-Family Residential  
R-3, Multiple Family Residential

1987 - 2004: R-2, Two-Family Residential

**Tract 2**

1925: A, First Dwelling House: One and Two Family Dwellings

1937 - 1965: A, First Dwelling House: One and Two Family Dwellings  
*B, Second Dwelling House: One and Two Family Dwellings, Apartments*

1969 - 1987: R-2, Two-Family Residential  
R-3, Multiple Family Residential

1987 - 2004: R-2, Two-Family Residential

**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 TNO District will be applied to the underlying R-2 District. The proposed TNO District is intended to reduce development intensity and conserve the traditional character of the older neighborhoods through Compatibility Standards. The TNO District maintains most of the requirements of the underlying zoning district with the exception of maximum lot coverage and the size of the second dwelling unit, and adds Compatibility Standards, that require new infill residential buildings, and additions or modifications to existing residential buildings, to incorporate basic design and site layout elements characteristic of homes in the traditional neighborhoods of Manhattan.

Nonconforming Uses: Article VIII of the Zoning Regulations addresses nonconforming uses. Section 8-405 (E) provides for reconstruction of legally existing nonconforming residential properties as follows:

*“When any residential dwelling, or dwellings, located in a residential district are legally nonconforming and are damaged or destroyed by any means, other than the willful act of the owner, such structure may be restored so that such use may continue if a building permit is issued and restoration is begun within one (1) year of the damage, is diligently pursued to completion, and no greater number of living units are provided than existed prior to the damage and no greater nonconformity exists than existed prior to the damage.”*

Article VIII also addresses areas such as normal maintenance and repair and modifications other than normal maintenance and repair, such as expansion of the dwelling or modernization of the building. Normal maintenance and incidental repair of a structure, which does not expand, enlarge or increase the degree of the legal nonconformity, are allowed.

In addition, as per Section 8-501, any legally nonconforming use can utilize the conditional use process to apply to modify the nonconforming use, through the public hearing process with the Board of Zoning Appeals.

The proposed rezoning is consistent with the intent of the Zoning Regulations.

**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. The intent of adding the TNO District is to stabilize and strengthen the traditional neighborhood characteristics of Sub Area C and reduce the potential development intensity from what is possible under the current zoning. Denial of the rezoning would likely promote continued destabilization of this area and would not ensure that the established character of Sub Area C is maintained.

**ADEQUACY OF PUBLIC FACILITIES AND SERVICES:** Adequate public streets, sanitary sewer and water are available to serve the site. There are sidewalks throughout the area. No public improvements are required as a part of the rezoning.

The proposed rezoning would limit potential future intensification, which will ensure continued long-term adequacy of public facilities and services.

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**OTHER APPLICABLE FACTORS:** The Cover Memorandum outlines additional information on the community process used to carryout the two-year study of the traditional neighborhood areas, which include the Phase 3 Sub Areas. Additional information on the development and findings of the Neighborhood Index, and other factors that were considered during the neighborhood analysis, are detailed in the Cover Memorandum and helped to form the reasoning upon which this rezoning proposal is based (*see Cover Memorandum and related attachments*).

**STAFF COMMENTS:** City Administration recommends approval of the proposed rezoning of Phase 3, Sub Area C from R-2, Two-family Residential District, to R-2/TNO, Two-family Residential District with Traditional Neighborhood Overlay District, based on the findings in this Staff Report and the Cover Memorandum.

#### **ALTERNATIVES:**

1. Recommend approval of the proposed rezoning of Sub Area C from R-2, Two-family Residential District, to R-2/TNO, Two-family Residential District with Traditional Neighborhood Overlay District, based on the findings in the Staff Report and the Cover Memorandum.
2. Recommend denial of the proposed rezoning to add the TNO, Traditional Neighborhood Overlay District to Sub Area C, based on specifically stated findings addressing the 13 zoning standards.
3. Recommend a reduced extent of the TNO, Traditional Neighborhood Overlay District in Sub Area C, based on specifically stated findings addressing the 13 zoning standards.
4. Table the proposed rezoning to a specific date, for specifically stated reasons and provide further direction to City Administration.

#### **POSSIBLE MOTION:**

The Manhattan Urban Area Planning Board recommends approval of the proposed rezoning of Phase 3 - Sub Area C from R-2, Two-family Residential District, to R-2/TNO, Two-family Residential District with Traditional Neighborhood Overlay District, based on the findings in the Phase 3, Sub Area C Staff Report and the Cover Memorandum.

**PREPARED BY:** Cameron Moeller, Planner

**DATE:** January 23, 2004  
04003

***STAFF REPORT***  
***PHASE 3, SUB AREA D***

**ON AN APPLICATION TO REZONE PROPERTY**

**FROM:** R-M, Four-Family Residential District

**TO:** R-M/TNO: Four-Family Residential District with Traditional Neighborhood Overlay District

**APPLICANT:** Manhattan Urban Area Planning Board

**ADDRESS:** 1101 Poyntz Avenue

**OWNERS:** Owners of record per ownership list

**ADDRESSES:** Per ownership list

**LOCATION:** Referred to as Phase 3, Sub Area D, generally located west of N. 4<sup>th</sup> Street, N. 6<sup>th</sup> Street, and N. Juliette Avenue; north of Osage Street, Leavenworth Street and the alley south of Humboldt Street; east of N. 11<sup>th</sup> Street, N. 10<sup>th</sup> Street and N. 9<sup>th</sup> Street; and south of Vattier Street, Fremont Street, Osage Street and the alley north of Laramie Street.

**AREA:** 83.28 acres

**DATE OF PUBLIC NOTICE PUBLICATION:** Monday, January 12, 2004

**DATE OF PUBLIC HEARING: PLANNING BOARD:** Monday, February 2, 2004  
**CITY COMMISSION:** Tuesday, February 17, 2004

**EXISTING USE:** There are 414 properties in the area. The area includes a range of residential uses, the majority of properties being single-family homes and single-family homes that have been converted into rental apartments. Among the other residential uses within the area are duplexes, four-plexes, and two and three-story apartment buildings. The area also includes Woodrow Wilson Elementary School, the former Bluemont School building, as well as several churches, those being First Presbyterian Church, the Korean Church, and the Seventh Day Adventist Church.

**PHYSICAL AND ENVIRONMENTAL CHARACTERISTICS:** This is part of the older well-established grid street neighborhood area of the community. The front yards of most residences are maintained as landscaped green space along tree lined streets, with parking areas generally located in the rear yard with access off the alley. Many of the residential structures are sited relatively close to the front property line in comparison to homes in newer residential subdivisions.

**SURROUNDING LAND USE AND ZONING:**

- (1) **NORTH:** R-2, Two-Family Residential District (proposed to be rezoned to R-2/TNO): Includes mostly single-family structures, many of which have been retained as single-family homes while others have been converted into two-family dwelling units, as well as several duplex structures.
- (2) **SOUTH:** C-1, Restricted Business District and C-4, Central Business District: Includes a mix of professional offices and residential uses, along with several churches.
- (3) **EAST:** R-2, Two-Family Residential District (proposed to be rezoned to R-2/TNO): Includes mostly single-family homes and single-family structures that have been converted into two-family dwelling units.
- (4) **WEST:** R-3, Multiple-Family Residential District: City Park. R-3/M-FRO, Multiple-Family Residential with Multi-Family Redevelopment Overlay District: Includes a mix of residential uses, with most being single-family structures that have been converted into rental apartments and two and three-story apartments, with some duplex structures and single-family homes.

**GENERAL NEIGHBORHOOD CHARACTER:** Sub Area D consists of well-established residential neighborhoods with mature trees and tree-lined streets. The area consists predominantly of single-family residential structures, most of which are generally large relative to homes within other areas of the older traditional neighborhoods. There is a mixture of those structures that have been retained as single-family homes and those that have been converted into rental apartments. Most of the properties have access off alleys.

**SUITABILITY OF SITE FOR USES UNDER CURRENT ZONING:** Sub Area D is currently zoned R-M, Four-Family Residential District. While the uses and densities permitted within the R-M District are generally suitable for the existing mixture of residential uses and densities found within this Sub Area, the R-M District, by itself, does not address the design and site layout issues of new infill residential construction. Without the establishment of some control over the design and site layout of new infill

*Attachment No. 6*

construction, there is the possibility that new residential construction will be built that is inappropriate, out of character, and detrimental to the continued stability of the Sub Area.

**COMPATIBILITY OF PROPOSED DISTRICT WITH NEARBY PROPERTIES AND EXTENT TO WHICH IT MAY HAVE DETRIMENTAL AFFECTS:** The proposed addition of the TNO District would ensure that new infill residential buildings and additions or modifications to existing residential buildings, would incorporate basic design and site layout elements characteristic of existing homes in these neighborhoods and reduce the intensity of certain types of development. In addition the TNO District provisions insure that new parking areas would not be in front of residential structures. The TNO District will reduce the lot coverage permitted by the underlying R-M District (reduced from 35% to 30%) and also places some limitations on the size of the second dwelling unit and number of bedrooms (no greater than 600 square feet and no more than two bedrooms) for Two-family dwellings.

The proposed R-M/TNO, Four-family Residential District with Traditional Neighborhood Overlay District will be compatible with the characteristics associated with the traditional neighborhoods and adjoining neighborhoods. The TNO District provisions for compatibility will help to stabilize this sub area and reduce or eliminate potential impacts on surrounding properties.

**CONFORMANCE WITH COMPREHENSIVE PLAN:** The proposed rezoning is in conformance with the Manhattan Urban Area Comprehensive Plan for the reasons indicated below.

The Manhattan Urban Area Comprehensive Plan identifies this area as RMH, Residential Medium/High Density. The RMH designation is a residential category with a density range from 11 to 19 dwelling units per net acre. The R-M District is a medium to high-density designation.

Chapter 4, Policy UR 6: Design of Infill and Redevelopment on page 4-6 provides the policy support for the proposed rezoning:

*“Infill and redevelopment shall be designed in a manner that is sensitive to and reflects the character of the surrounding neighborhood. Important design considerations include building scale, mass, roof form, height, and orientation, parking location, lot coverage, architectural character, and landscape elements.”*

Chapter 9 of the Comprehensive Plan has specific Goals and Principles dealing with Housing and Neighborhoods that apply to the traditional neighborhoods of Manhattan:

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*“Foster the stabilization of Manhattan’s established and older core neighborhoods.*

- *Maintain, conserve, rehabilitate and/or redevelop the housing and neighborhoods in the older areas of Manhattan, including the downtown.*
- *Identify and foster initiatives to maintain or enhance the quality of life in existing neighborhoods throughout the community.”*

*The emphasis in these stated goals and principles is the protection of the older neighborhood fabric and preserving and improving the quality of life of existing neighborhoods such as those in Sub Area D.*

The Compatibility Standards of the TNO District also help implement the Community Design goal and guiding principle as stated in Chapter 11, page 11-1 of the Comprehensive Plan:

*“Guide the quality of development with building and site design guidelines as appropriate. Encourage infill redevelopment that is compatible with and enhances the surrounding neighborhood character.”*

**ZONING HISTORY AND LENGTH OF TIME VACANT AS ZONED:** The area has been subject to zoning regulations since 1926. There were homes and other buildings in the area, prior to that date.

1926 - 1937: A, First Dwelling House: One and Two Family Dwellings (the majority of Sub Area D)

B, Second Dwelling House: One and Two Family Dwellings; Apartment Houses

1937 - 1965: A, First Dwelling House: One and Two Family Dwellings

B, Second Dwelling House: One and Two Family Dwellings; Apartment Houses (the majority of Sub Area D)

1965 - 1969: B, Multiple Family Dwelling (the majority of Sub Area D)

A, Single & Two Family Dwelling

1987 - 2004: R-M, Four-Family Residential

**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.

*Attachment No. 6*

The R-M, Single-Family Residential District is designed to promote a medium density mixture of single-family, two-family, and small multi-family residential developments, with a maximum of four (4) dwelling units per structure on a single lot and at a density no greater than four (4) dwelling units per 9,000 square feet.

The proposed TNO District is intended to conserve the traditional character of the older neighborhoods through Compatibility Standards. The TNO District maintains most of the requirements of the underlying zoning district and adds the Compatibility Standards, specifically designed to address the issues unique to the older neighborhoods of Manhattan. The Compatibility Standards require that new infill residential buildings, and additions or modifications to existing residential buildings, incorporate basic design and site layout elements characteristic of homes in the traditional neighborhoods. The TNO is used in conjunction with an underlying residential district. (Note: The definitions pursuant to Section 4-111 (G) shall apply to the TNO District.)

Nonconforming Uses: Article VIII of the Zoning Regulations addresses nonconforming uses. Section 8-405 (E) provides for reconstruction of legally existing nonconforming residential properties as follows:

“When any residential dwelling, or dwellings, located in a residential district are legally nonconforming and are damaged or destroyed by any means, other than the willful act of the owner, such structure may be restored so that such use may continue if a building permit is issued and restoration is begun within one (1) year of the damage, is diligently pursued to completion, and no greater number of living units are provided than existed prior to the damage and no greater nonconformity exists than existed prior to the damage.”

Article VIII also addresses areas such as normal maintenance and repair and modifications other than normal maintenance and repair, such as expansion of the dwelling or modernization of the building. Normal maintenance and incidental repair of a structure, which does not expand, enlarge or increase the degree of the legal nonconformity, are allowed.

In addition, as per Section 8-501, any legally nonconforming use can utilize the conditional use process to apply to modify the nonconforming use, through the public hearing process with the Board of Zoning Appeals.

The proposed rezoning is consistent with the intent of the Zoning Regulations.

*Attachment No. 6*

**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. The intent of adding the TNO District is to stabilize and strengthen the traditional neighborhood characteristics of Sub Area D and reduce the potential development intensity of certain types of infill development from what is possible under the current zoning. Denial of the rezoning would likely promote continued destabilization of this area and would not ensure that the established character of Sub Area D is maintained.

**ADEQUACY OF PUBLIC FACILITIES AND SERVICES:** Adequate public streets, sanitary sewer and water are available to serve the site. There are sidewalks throughout the area. No public improvements are required as a part of the rezoning.

**OTHER APPLICABLE FACTORS:** The Cover Memorandum outlines additional information on the community process used to carryout the two-year study of the traditional neighborhood areas, which include the Phase 3 Sub Areas. Additional information on the development and findings of the Neighborhood Index, and other factors that were considered during the neighborhood analysis, are detailed in the Cover Memorandum and helped to form the reasoning upon which this rezoning proposal is based (*see Cover Memorandum and related attachments*).

**STAFF COMMENTS:** City Administration recommends approval of the proposed rezoning of Phase 3, Sub Area D from R-M, Four-Family Residential District, to R-M/TNO, Four-Family Residential District with Traditional Neighborhood Overlay District, based on the findings in this Staff Report and the Cover Memorandum.

### **ALTERNATIVES:**

1. Recommend approval of the proposed rezoning of Sub Area D from R-M, Four-Family Residential District, to R-M/TNO, Four-Family Residential District with Traditional Neighborhood Overlay District, based on the findings in the Staff Report and the Cover Memorandum.
2. Recommend denial of the proposed rezoning to add the TNO, Traditional Neighborhood Overlay District to Sub Area D, based on specifically stated findings addressing the 13 zoning standards.

*Attachment No. 6*

3. Recommend a reduced extent of the TNO, Traditional Neighborhood Overlay District in Sub Area D, based on specifically stated findings addressing the 13 zoning standards.
4. Table the proposed rezoning to a specific date, for specifically stated reasons, and provide further direction to City Administration.

**POSSIBLE MOTION:**

The Manhattan Urban Area Planning Board recommends approval of the proposed rezoning of Phase 3 - Sub Area D from R-M, Four-Family Residential District, to R-M/TNO, Four-Family Residential District with Traditional Neighborhood Overlay District, based on the findings in the Phase 3 - Sub Area D Staff Report and the Cover Memorandum.

**PREPARED BY:** Cameron Moeller, AICP, Planner

**DATE:** January 23, 2004  
04004