



MINUTES
CITY COMMISSION MEETING
TUESDAY, JUNE 4, 2013
7:00 P.M.

The Regular Meeting of the City Commission was held at 7:00 p.m. in the City Commission Room. Mayor John E. Matta and Commissioners Wynn Butler, Karen McCulloh, Usha Reddi, and Richard B. Jankovich were present. Also present were the City Manager Ron R. Fehr, Deputy City Manager Jason Hilgers, City Attorney Bill Raymond, City Clerk Gary S. Fees, 8 staff, and approximately 22 interested citizens.

PLEDGE OF ALLEGIANCE

Mayor Matta led the Commission in the Pledge of Allegiance.

PRESENTATIONS

Steve Samuelson, National Flood Insurance Program (NFIP) Specialist, Kansas Department of Agriculture, presented a Community Rating System (CRS) Program award to the City of Manhattan for being accepted into the National Floodplain Management Program and for its floodplain management efforts. Chad Bunger, Planner II; John Matta, Mayor; and Ron Fehr, City Manager, were present to receive the award.

Kansas Government Finance Officers Association (GFOA) awarded the City of Manhattan the Distinguished Budget Award. Bernie Hayen, Director of Finance; John Matta, Mayor; and Ron Fehr, City Manager, accepted the award.

PROCLAMATION

Mayor Matta proclaimed June 14-15, 2013, **JUNETEENTH**. Monique King, Chair; Don Slater, Co-Chair; Yasche Glass, Event Coordinator; and Derick Thomas and Corey Leavell, members, Juneteenth Committee, were present to receive the proclamation.

PUBLIC COMMENTS

Mayor Matta opened the public comments.

Hearing no comments, Mayor Matta closed the public comments.

COMMISSIONER COMMENTS

Commissioner Jankovich congratulated Chad Bunker, Planner II, for his efforts with the National Floodplain Management Group and extended his appreciation to the Wildcat Creek Working Group for their work. He also congratulated Bernie Hayen, Finance Director, and his team for receiving the GFOA award and extended his appreciation to the City's Municipal Audit Committee for their work.

Commissioner Reddi informed the community that the Arts in the Park performance last Friday was wonderful and encouraged citizens to take advantage of the Parks and Recreation programs available. She stated that the Manhattan Public Library has its summer reading program available for kids and adults. She also extended her appreciation to Ward Morgan for taking the initiative to purchase Hibachi Hut and for keeping the restaurant in Manhattan, after the announcement that it would be closing.

Mayor Matta stated that the Commission discussed pool admission policies during the Discussion/Briefing Session held prior to the Commission Meeting. He informed the community that further discussion on pool admission and entrance policies and practices would occur at the City Commission Work Session on Tuesday, June 11, 2013. He also stated that a further evaluation on the pool rate structure and policies would occur in the fall after additional data from the pool season has been received.

CONSENT AGENDA

(* denotes those items discussed)

MINUTES

The Commission approved the minutes of the Regular City Commission Meeting held Tuesday, May 21, 2013.

CLAIMS REGISTER NO. 2733

The Commission approved Claims Register No. 2733 authorizing and approving the payment of claims from May 15, 2013, to May 28, 2013, in the amount of \$2,190,028.18.

CONSENT AGENDA (CONTINUED)

ORDINANCE NO. 7005 – AMEND – WAL-MART PLANNED UNIT DEVELOPMENT

The Commission approved Ordinance No. 7005 amending the Wal-Mart Planned Unit Development and approving the Final Development Plan of Manhattan Crossing PUD, generally located northeast of the intersection of Tuttle Creek Boulevard Frontage Road and Sarber Lane, based on the findings in the revised Staff Report (*See Attachment No. 1*), with the five conditions of approval.

ORDINANCE NO. 7006 – REZONE – LOT 4, MANHATTAN INDUSTRIAL PARK, UNIT FOUR (610 HAYES DRIVE)

The Commission approved Ordinance No. 7006 rezoning Lot 4, Manhattan Industrial Park, Unit Four, generally located at 610 Hayes Drive, from C-5, Highway Service Commercial District, to I-2, Industrial Park District, based on the findings in the Staff Report (*See Attachment No. 2*).

FINAL PLAT – MANKO III ADDITION

The Commission accepted the easements and rights-of-way, as shown on the Final Plat of Manko III Addition, generally located east of Hayes Drive at the end the Service Circle cul-de-sac.

* **ORDINANCE NO. 7007 – REZONE – NORTHLAKE ADDITION**

Commissioner Jankovich announced that he had a conflict of interest and would be abstaining from the item.

The Commission approved Ordinance No. 7007 rezoning Northlake Addition, a 9.9 acre tract of undeveloped land, generally located 150 feet west of the intersection of Brookpark Drive and Northfield Road, from R-3, Multiple-Family Residential District, to R-2, Two-Family Residential District, based on the findings in the Staff Report (*See Attachment No. 3*).

* **FINAL PLAT – NORTHLAKE ADDITION, UNIT 1**

Commissioner Jankovich announced that he had a conflict of interest and would be abstaining from the item.

The Commission accepted the easements and rights-of-way, as shown on the Final Plat of Northlake Addition, Unit 1, generally located 150 feet west of the intersection of Brookpark Drive and Northfield Road.

CONSENT AGENDA (CONTINUED)

RESOLUTION NO. 060413-A – LEE MILL HEIGHTS, UNIT EIGHT, PHASE 1 – SANITARY SEWER IMPROVEMENTS (SS1306)

The Commission found the petition sufficient and approved Resolution No. 060413-A finding the project advisable and authorizing construction for Lee Mill Heights, Unit Eight, Phase 1, Sanitary Sewer (SS1306) Improvements.

RESOLUTION NO. 060413-B – LEE MILL HEIGHTS, UNIT EIGHT, PHASE 1 – STREET IMPROVEMENTS (ST1307)

The Commission found the petition sufficient and approved Resolution No. 060413-B finding the project advisable and authorizing construction for Lee Mill Heights, Unit Eight, Phase 1, Street (ST1307) Improvements.

RESOLUTION NO. 060413-C - LEE MILL HEIGHTS, UNIT EIGHT, PHASE 1 – WATER IMPROVEMENTS (WA1306)

The Commission found the petition sufficient and approved Resolution No. 060413-C finding the project advisable and authorizing construction for Lee Mill Heights, Unit Eight, Phase 1, Water (WA1306) Improvements.

AGREEMENT – ENGINEERING SERVICES – LEE MILL HEIGHTS, UNIT EIGHT, PHASE 1 – SANITARY SEWER (SS1306), STREET (ST1307), AND WATER (WA1306) IMPROVEMENTS

The Commission authorized the Mayor and City Clerk to execute an agreement with Schwab-Eaton, P.A., of Manhattan, Kansas, to perform professional services for the Lee Mill Heights, Unit Eight, Phase 1, Sanitary Sewer (SS1306), Street (ST1307), and Water (WA1306) Improvements.

* **REJECT BID - LEE MILL HEIGHTS, UNIT EIGHT, PHASE 1 – SANITARY SEWER (SS1306), STREET (ST1307), AND WATER (WA1306) IMPROVEMENTS**

Ron Fehr, City Manager, provided clarification on the item and revised motion.

The Commission accepted the Engineer's Opinion of Probable Cost in the amount of \$199,029.50 and rejected the bid from Manhattan Trenching, of Manhattan, Kansas, in the amount of \$211,124.20 for Lee Mill Heights, Unit Eight, Phase 1 – Sanitary Sewer (SS1306), Street (ST1307), and Water (WA1306) Improvements.

OUTSIDE CITY SEWER AGREEMENT – 2750 MOEHLMAN ROAD (MARTA'S JANITORIAL SERVICES, INC.)

The Commission authorized the Mayor and City Clerk to execute an agreement with Marta's Janitorial Services, Inc., a Kansas Corporation, of Riley County, Kansas, for outside city limits sanitary sewer service for seven (7) existing mobile homes and one (1) additional mobile home at 2750 Moehlman Road.

CONSENT AGENDA (CONTINUED)

OUTSIDE CITY SEWER AGREEMENT – 3701 ROCKY FORD AVENUE (MARVIN DALE FORCE II)

The Commission authorized the Mayor and City Clerk to execute an agreement with Marvin Dale Force II for an outside city limits sanitary sewer service connection for the residence at 3701 Rocky Ford Avenue, Riley County, Kansas.

After discussion and comments from the Commission, Commissioner Butler moved to approve the consent agenda. Commissioner McCulloh seconded the motion. On a roll call vote, motion carried 5-0, with the exceptions of Item F, ORDINANCE NO. 7007 – REZONE – NORTHLAKE ADDITION, and Item G, FINAL PLAT – NORTHLAKE ADDITION, UNIT 1, which carried 4-0-1, with Commissioner Jankovich abstaining from the items.

GENERAL AGENDA

FIRST READING - AMEND - LOT 2, MANHATTAN PLAZA COMMERCIAL PUD

Eric Cattell, Assistant Director for Planning, presented an overview of the item. He then responded to questions and concerns expressed from the Commission regarding the proposed parking lot and building locations, the floodplain map, and the amount of fill dirt required.

Chris Hafner, Davidson Architecture and Engineering, LLC, provided information on the proposal and considerations regarding the building and parking lot site layout. He responded to questions and concerns expressed from the Commission. He also provided additional information regarding the Wildcat Creek Floodplain, the impact of the project on the floodplain, existing conditions, and the analysis that has been conducted on Wildcat Creek.

Jeff Berg, representing the ownership group Surplus Investor's of Manhattan, LLC, provided additional information regarding the item and the preference of PetSmart for the location of the building.

Brent Sells, P.E., Civil Engineer, Davidson Architecture and Engineering, LLC, presented the existing conditions of the site, the existing Wildcat Creek model, the new section of the ineffective flow area, the future 100-year floodplain, the flow increase, the Wildcat Creek Watershed map and Wildcat Creek at Scenic Drive stream flow data from May 29 and May 30, 2013, and the model output. He then responded to questions from the Commission.

GENERAL AGENDA (CONTINUED)

FIRST READING - AMEND - LOT 2, MANHATTAN PLAZA COMMERCIAL PUD (CONTINUED)

Chris Hafner, Davidson Architecture and Engineering, LLC, provided additional information regarding the future 100-year floodplain map.

Jeff Berg, representing the ownership group Surplus Investor's of Manhattan, LLC, responded to questions from the Commission and provided clarification regarding the parking lot and building layout, curb cuts, fill dirt requirements, and project affordability.

Chris Hafner, Davidson Architecture and Engineering, LLC, and Brent Sells, P.E., Civil Engineer, Davidson Architecture and Engineering, LLC, provided additional information regarding the parking and traffic flow. They responded to questions from the Commission regarding the orientation of the building, the parking lot, and water runoff from the parking lot.

Rod Harms, 101 Waterbridge Road, asked if the parking lot could be reduced by 10 or 11 more parking spaces as indicated in the staff presentation. He also asked the Commission to consider the volumetrics and to require the applicant to purchase fill material from the adjacent flood plain rather than hauling in dirt from outside the area.

Chris Hafner, Davidson Architecture and Engineering, LLC, responded to questions from the Commission and informed the Commission that if they can get fill dirt close to the site, they would be happy to do so. However, he stated that they did not want to use dirt from the site if it would tear down trees. He informed the Commission that if there is an opportunity to use available fill dirt in the area that is suitable for building fill, they would explore that and work with the general contractor to find the most cost effective and suitable soil in the floodplain area. He provided additional information on the number of parking spaces, Americans with Disabilities Act (ADA) parking stall requirements, and the curb cut.

After additional discussion and comments from the Commission, Commissioner McCulloh moved to approve first reading of an ordinance amending Ordinance No. 6263 and approving the Final Development Plan of Lot 2, Manhattan Plaza Commercial Planned Unit Development, generally located south of Home Depot along the east side of the Seth Child Road frontage road, providing for a 12,154 sq. ft. PetSmart retail store, based on the findings in the Staff Report (*See Attachment No. 4*), with the four conditions of approval. Commissioner Reddi seconded the motion.

After additional comments from the Commission, on a roll call vote, motion carried 3-2, with Commissioners Butler and Jankovich voting against the motion.

GENERAL AGENDA (CONTINUED)

FIRST READING - AMEND - LOT 3 PENNY'S CONCRETE INDUSTRIAL PUD, UNIT TWO

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

After discussion, Commissioner Jankovich moved to approve first reading of an ordinance amending Ordinance Nos. 6730 and 6915 and the Final Development Plan of Lot 3, Penny's Concrete Industrial PUD, Unit Two, to allow for an off-site advertising sign (billboard) for Thomas Outdoor Advertising along K-18, based on the findings in the Staff Report (*See Attachment No. 5*), with the three conditions of approval recommended by the Manhattan Urban Area Planning Board. Commissioner Butler seconded the motion. On a roll call vote, motion carried 5-0.

CONTRACT AMENDMENT NO. 1 - FINAL DESIGN - PARKS AND RECREATION OFFICE EXPANSION AND CITY AUDITORIUM RENOVATION (SP1206)

Jason Hilgers, Deputy City Manager, provided background information regarding the item and presented an overview of the design contract for City Auditorium renovation to incorporate the Parks and Recreation offices. He then responded to questions from the Commission regarding efficiencies and savings in staffing that would result with the integration of Customer Service personnel at City Hall, the opportunities to increase the use of online program and service registrations, and the proposed project financing plan.

After discussion and comments from the Commission, Jason Hilgers, Deputy City Manager, responded to additional questions from the Commission. He provided information on the purpose and current balance of the Capital Improvement Project (CIP) Reserve Fund and the Special Parks and Recreation Fund.

Bernie Hayen, Director of Finance, responded to questions from the Commission regarding the Capital Improvement Project (CIP) Reserve Fund, the ability to replenish the CIP Reserve Fund, and the current City debt and retirement of debt.

Ron Fehr, City Manager, provided additional information and clarification on the CIP Reserve Fund. He also responded to questions from the Commission on the challenges associated in replenishing the CIP Reserve Fund without excess sales tax receipts.

Randi Dale, 2416 Rogers Boulevard, provided background information material to the Commission on the Peace Memorial Auditorium and highlighted performances and recitals that have occurred on the stage. She voiced concerns with the proposed removal of the stage and stated that removal of the stage would go against why the Auditorium was built. She informed the Commission that 32 organizations supported the Peace Memorial Auditorium and stated that she wanted to see the stage saved and asked the Commission to think about the history and to honor veterans with a living memorial. She requested that

GENERAL AGENDA (CONTINUED)

CONTRACT AMENDMENT NO. 1 - FINAL DESIGN - PARKS AND RECREATION OFFICE EXPANSION AND CITY AUDITORIUM RENOVATION (SP1206) (CONTINUED)

consideration be given to moving the Parks and Recreation offices to the Community Building. She asked the Commission to vote no on the current proposal. She stated that she would volunteer to be in charge of a committee to raise funds for new stage lights and air conditioning in the Auditorium. She also stated that she would speak to the various groups that were involved in the past in which to keep the Auditorium stage as a living memorial to honor veterans.

Linda Glasgow, 2236 Snowbird Drive, Archivist Librarian, Riley County Historical Museum, provided additional historical background information to the Commission regarding the Peace Memorial Auditorium. She stated that the trend after World War II was to create a living memorial project to serve the community. She informed the Commission that there was a great deal of community participation and discussion from civic groups and citizens. She referenced documentation from the City of Manhattan dated October 28, 1955, regarding the Peace Memorial Auditorium and stated that the Auditorium and stage were the central components of this memorial because this is where the commemorative activities were going to take place into the future. She asked the Commission to take time to consider the item seriously and to think about what the greatest generation gave to Manhattan and what is owed to them.

David Margolies, 115 North 18th Street, informed the Commission that he agreed that the Parks and Recreation Department needs new offices. However, he stated that there are very few facilities like the City Auditorium stage and with the installation of air conditioning and updates, the stage could be a gem for the community. He requested that the Commission reconsider the stage in the proposal for the performing arts and to pay attention to its historical background. He stated that a private group is looking at building a sports facility with basketball courts and other opportunities for basketball and sporting activities.

Ron Fehr, City Manager, responded to questions from the Commission and stated that this item was initially discussed during a February 26, 2013, City Commission Work Session. He informed the Commission that he was not aware of any possible historic legality with the proposed renovation plans, but would take time to explore all aspects before the City moves forward.

After discussion and comments from the Commission, Jason Hilgers, Deputy City Manager, responded to questions from the Commission regarding the use of the stage in the Auditorium.

GENERAL AGENDA (CONTINUED)

CONTRACT AMENDMENT NO. 1 - FINAL DESIGN - PARKS AND RECREATION OFFICE EXPANSION AND CITY AUDITORIUM RENOVATION (SP1206) (CONTINUED)

After additional discussion and comments from the Commission, Commissioner Butler moved to approve Contract Amendment No. 1 with Bruce McMillan Architects, of Manhattan, Kansas, in the amount of \$123,435.00 to complete the final design for bidding purposes of the City Auditorium Renovation incorporating the new Parks and Recreation Offices (SP1206), with the caveat that the City investigate to make certain that it is not violating any historic preservation of rules, covenants, or contracts. Commissioner Jankovich seconded the motion. On a roll call vote, motion carried 4-1, with Commissioner McCulloh voting against the motion.

DISCUSSION: POSSIBLE MODIFICATIONS TO THE CITY'S BENEFIT DISTRICT POLICIES TO FINANCE AND PARTICIPATE IN VARIOUS PUBLIC INFRASTRUCTURE DEVELOPMENT

Jason Hilgers, Deputy City Manager, introduced the item and presented options for the Commission. He then responded to questions from the Commission regarding historic delinquency rates and alternatives for the Commission's consideration.

Bill Raymond, City Attorney, and Jason Hilgers, Deputy City Manager, provided clarification on the five percent statutory limit, the possible application fee that could be charged, and the options for consideration.

Jeff Hancock, SMH Consultants, provided background information on the City's policy to create benefit districts. He stated there can be issues in the preparation of petitions and benefit districts; however, he said this is not a reason to do away with the current benefit district policy. He stated that benefit districts create more buying power and helps the community grow. He voiced concern in changing the benefit district policy and the option of requiring a Letter of Credit, which would have an impact on additional costs to the developer. He then responded to questions from the Commission and stated that the current benefit district policy works well and that he was not convinced that it needed to be changed.

Tim Schultz, Schultz Construction, informed the Commission that requiring a Letter of Credit would add to the costs and would add another layer to the process for the developer. He stated that he has no mechanism to pay for the public infrastructure outright without creating a special benefit district on developments and did not want to lose the sales tax exemption. He responded to questions from the Commission and requested that this issue and his concerns be investigated further.

Bill Raymond, City Attorney, responded to questions and provided clarification on his conversation with the Kansas Department of Revenue.

GENERAL AGENDA (CONTINUED)

DISCUSSION: POSSIBLE MODIFICATIONS TO THE CITY'S BENEFIT DISTRICT POLICIES TO FINANCE AND PARTICIPATE IN VARIOUS PUBLIC INFRASTRUCTURE DEVELOPMENT (CONTINUED)

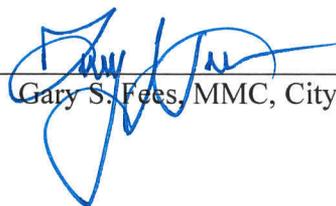
Rod Harms, 101 Waterbridge Road, informed the Commission that if this is a state issue, then the City should pursue and ask Representative Sydney Carlin to carry the bill through the legislature. He stated that the City should not penalize the majority of developers for the sins of a few. He informed the Commission that Manhattan needs housing now more than ever and stated that if the policy adds another layer to the process, it should be evaluated extremely carefully.

After additional discussion and comments from the Commission, Ron Fehr, City Manager, and Jason Hilgers, Deputy City Manager, responded to questions from the Commission and provided additional background information and analysis on delinquencies, back taxes, and possible application fees. They informed the Commission that City staff would work with state legislators on laws governing property developed for public infrastructure use and would bring modifications to the proposed benefit district policy back to the Commission for its consideration.

As this was a discussion item, no action was taken.

ADJOURNMENT

At 9:58 p.m., the Commission adjourned.



Gary S. Fees, MMC, City Clerk

AMENDMENT OF A COMMERCIAL PLANNED UNIT DEVELOPMENT

APPLICANT: Chip Corcoran, Renaissance Infrastructure Consulting on behalf of the owner.

OWNER: Project Manhattan, LLC.

APPLICANT ADDRESS: 11490 Strand Line Road, Lenexa, KS 66215.

OWNER ADDRESS: 1707 N. Waterfront Parkway, Wichita, KS 67206.

REQUEST: Amend the Wal-Mart Planned Unit Development (PUD) to add Drive-In Establishment as a Permitted Use in the PUD for a proposed drive-in restaurant, which will be located in the northwest part of the off-street parking lot to the east of the Frontage Road. Additional modifications include, but are not limited to, changes to the off-street parking lot, landscaping, signs, and other improvements. The amendment is in the form of a Final Development Plan. *(Note: The staff report was revised based on information received at the Planning Board regarding a second ground sign and traffic improvements located in the off-street parking lot northwest of the corner of the Staples store.)*

The proposed Final Development Plan renames the Wal-Mart PUD to Manhattan Crossing PUD.

LEGAL DESCRIPTION: Lot 1, Walmart Addition, Unit 2.

LOCATION: property generally located northeast of the intersection of Tuttle Creek Boulevard Frontage Road and Sarber Lane, at 606 Tuttle Creek Boulevard, and 620-632 Tuttle Creek Boulevard. Existing businesses on the site include Staples, Hobby Lobby, Hastings, Dollar Tree, H & R Block, Midland Medical, and Tad's Tropical Sno.

AREA: 11.11 acres.

DATE OF NEIGHBORHOOD MEETING: March 20, 2013.

DATE OF PUBLIC NOTICE PUBLICATION: Monday, April 15, 2013.

DATE OF PUBLIC HEARING: PLANNING BOARD: Monday, May 6, 2013.
CITY COMMISSION: Tuesday, May 21, 2013.

EXISTING PUD

Ordinance

The existing PUD has been amended on a number of occasions for a variety of changes including signs and site plan modifications since adoption of Ordinance No. 4630, on February 20, 1990, and thereafter (see Number 8 below **ZONING HISTORY AND LENGTH OF TIME VACANT AS ZONED**). Ordinance No. 4993, adopted October 15, 1996, allowed the pole sign in the southwestern corner of the PUD. Ordinance No. 6146, adopted June 20, 2000, was associated with Wal-Mart and allowed outdoor seasonal sales in the off-street parking lot. Ordinance No. 6426, adopted August 17, 2004, allowed Tads Tropical Sno and the current approved site plan. Other ordinances were related to building expansions that are not affected as a result of the amendment.

Permitted Uses

All of the Permitted Uses of the C-2, Neighborhood Shopping District, plus tire and battery auto service center (see Ordinance No. 4630, condition 1) are allowed in the existing PUD. Drive-in establishments are not allowed in the existing PUD.

PROPOSED AMENDMENT

The proposed application renames the shopping center to Manhattan Crossing and is proposed in the form of a Final Development Plan.

Proposed changes include: 1) Condition 1, Ordinance No. 4630, is amended to allow drive-in restaurant as a Permitted Use; 2) Ordinance No, 4993 is amended to delete a pole sign at the southwestern corner of the PUD; 3) Ordinance No. 6146 is amended to delete outdoor seasonal storage; and, 4) Ordinance No. 6426 amends the current approved site plan.

PROPOSED USE AND BUILDING: The proposed new building adjacent to the east side of the frontage road is a one story Chick-fil-A drive-in restaurant, approximately 20 feet tall, with lot coverage of 6,400 square feet. Exterior materials are primarily brick. Interior customer access is on the north side of the building with the drive-in window on the south side of the building. The drive-in circulation is a counter clockwise format accessed from internal parking lot aisles with a double stack lane converging to a single lane leading to the drive-in pick-up window. Outdoor seating is proposed on the west side of the restaurant. Interior seating is for 100 people with outdoor seating accommodating 20 people. Up to 12 part time and full time employees will be added. The lease space for the restaurant provides 55 off-street parking spaces.

Attachment No. 1

The proposed drive-in restaurant location is at elevation 1005 feet. Due to the location in the 100 Year Flood Plain, the lowest enclosed floor has to be at 1009 feet or above. The proposed lowest floor is shown at 1009.25 feet, and will require approximately four feet of fill to elevate the restaurant.

PROPOSED SIGNS: Proposed signs for the restaurant are internally illuminated wall signs on each building wall elevation ranging from approximately 12 square feet in area up to 56 square feet in area and other restaurant directional and other informational signage.

The existing shopping center ground sign will be replaced with a multi-tenant ground sign approximately 29 feet tall measured from the driveway grade, with illuminated letters identifying the name of the center and tenants. Overall sign dimensions are approximately 23 feet by 14 feet per side, or 322 square feet, with tenant letter spaces less than 3 feet in height by less than 14 feet in length. The sign will be in a landscaped base mounted on a 6 foot tall prairie stone base with prairie stone accent from top to bottom on the west side of the sign (see elevations).

A second internally illuminated ground sign, with a similar design described above, is proposed at the northwest corner of the site to address a concern of the Staples store because the northern two-way curb cut is removed. The ground sign will be limited to Staples and Chick-fil-A with a reader board. The sign is approximately 14 feet in width by 10 feet in heights on a six foot tall prairie stone base. The sign advertises Staples and Chick-fil-A, which has a changeable reader board for the restaurant.

Exempt signs will be added to the allow to those types of signs described in Article VI, Section 6-104 (A)(1),(2),(4),(5), and (7); and, Section 6-104 (B)(2) and B(5) (attached). These signs generally include governmental flags, address numerals, directional signs, seasonal lights and decorations, real estate and construction signs, and political signs.

PROPOSED LIGHTING: Existing parking lot and building lights do not change. Restaurant lease area building and parking lot lights are similar in height and are shaded.

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

1. WHETHER THE PROPOSED AMENDMENT IS CONSISTENT WITH THE INTENT AND PURPOSE OF THE APPROVED PUD, AND WILL PROMOTE THE EFFICIENT DEVELOPMENT AND PRESERVATION OF THE ENTIRE PUD: The amendment to allow the drive-in restaurant in an outbuilding differs from the original PUD, which did not envision outbuildings or drive-ins, only the existing principal shopping center buildings. (Note: The PUD was amended previously to allow an outbuilding in the southwest part of the site for a restaurant without a drive-in window, Tads Tropical Sno.) Condition No. 1, Ordinance No. 4630, dated February 20, 1990, identifies all Permitted Uses of the C-2, Neighborhood Shopping District are permitted in the PUD. Restaurants are a permitted use in the C-2 District. The proposed drive-in restaurant creates a shopping center consistent with modern shopping centers, which have perimeter buildings along street frontages, which may include drive-in restaurants. The PUD process allows for evaluation of the impacts and fit of the proposed use in the highway service commercial neighborhood and within the PUD.

The proposed use is a drive-in restaurant and will be located generally along the mid-western part of the parking lot furthest from the existing commercial buildings on the east side of the site. Customers can use the drive-in or park and eat in, or eat outside on a patio on the west side of the restaurant. Changes to the site plan will accommodate driving movements within the PUD.

Signage changes are consistent with the character of the shopping center.

The applicant states, in part, “The proposed amendment provides for additional retail opportunities and customers within the PUD and does not adversely impact the existing development within the PUD. As such, the Applicant believes that the proposed amendment is generally consistent with the intent of the PUD and will promote the efficient development and preservation of the entire PUD.”

2. WHETHER THE PROPOSED AMENDMENT IS MADE NECESSARY BECAUSE OF CHANGED OR CHANGING CONDITIONS IN OR AROUND THE PUD, AND THE NATURE OF SUCH CONDITIONS: The applicant indicates that the amendments are necessary because, “The existing PUD provides an opportunity for a new business to be located on site, supporting the overall use, efficiency and viability of the shopping center, Additionally, the proposed addition an of a outbuilding reconfigures access to the center by eliminating and access point that was subject to limited site distance and which promoted cut through traffic to and from adjacent streets. Additionally, outbuildings are common in large shopping centers and would otherwise be allowed if the site were not a PUD and was zoned C-2 District, for example.”

3. WHETHER THE PROPOSED AMENDMENT WILL RESULT IN A RELATIVE GAIN TO THE PUBLIC HEALTH, SAFETY, CONVENIENCE OR GENERAL WELFARE, AND IS NOT GRANTED SOLELY TO CONFER A SPECIAL BENEFIT UPON ANY PERSON: A relative gain to the public should result from a reduction of the number of curb cuts along Tuttle Creek Boulevard frontage road and traffic control at the northwest corner of the existing Staples store, consistent with parking access control improvements reviewed and accepted by the Public Works Department. The proposed amendments are a benefit to the motoring public by increasing the opportunity for added consumer choice in Manhattan's restaurant market. The drive-in restaurant also provides an added benefit to the motoring public by adding a convenient and easily accessed drive-in window service from nearby public streets. Sign changes will identify the shopping center and services and business offered to the public.

ADDITIONAL MATTERS TO BE CONSIDERED WHEN AMENDING A PLANNED UNIT DEVELOPMENT

1. LANDSCAPING: A revised landscaping plan is proposed for the overall PUD and a more specific landscape plan is proposed around the drive-in restaurant, both of which are described on the Final Development Plan drawings and plans.

Irrigation is in-ground sprinklers. Landscaping is maintained by the property owner.

2. SCREENING: Trash containers for the restaurant will be screened by an 8 foot 8 inch split block wall and metal gates, described on the Final Development Plan drawings and plans.

3. DRAINAGE: The site drains to the southwest corner of the parking lot. The amendment does not require additional drainage improvements. The applicant's consultant contacted AMEC, the consultant that prepared the Preliminary Flood Plain Maps, to determine if the request, which requires fill and elevation of the restaurant, will impact the storage capacity of the flood plain. AMEC (attachment) reviewed the proposal and made a determination. A memo (attached) dated May 1, 2013, from Shane Swope P.E. Stormwater Engineer, Manhattan Public Works Department, states,

"AMEC Engineering was retained by Renaissance infrastructure Consultants to analyze the floodplain impact of the proposed development. AMEC had previously developed an interior flooding model for the Levee Certification project and AMEC used this study to analyze the impacts of the proposed fill to the floodplain storage. There was a very minor increase in the water surface elevation of 0.01 feet. The increase would not change the mapped static water surface elevation of 1008 feet. City Staff has reviewed and accepted the results of this report."

Attachment No. 1

4. CIRCULATION: Public Access. Modifications recommended and approved by the Public Works Department (*memo attached*) to the blind corner at the northwest corner of the Staples store improve the proposed internal circulation plan, which will provide for safe, convenient and efficient movement of goods, motorists, bicyclists, and pedestrians, and reduce conflicts between motorists and pedestrians. Internal access to the drive-in restaurant is proposed with driving lanes controlled by stop signs and no entry signs. A sidewalk exists along the Tuttle Creek Boulevard frontage road but no sidewalks exist along Sarber Lane and Hayes Drive. A proposed pedestrian connection from the frontage road sidewalk accommodates pedestrian access to the proposed drive-in restaurant.

Existing access is from three abutting streets and curb cuts: 1) A total of five curb cuts along the Tuttle Creek Boulevard frontage road; 2) Two curb cuts off Sarber Lane; and, 3) One curb cut off Hayes Drive. Proposed access removes the northwestern divided curb cut with three remaining entrance/exits onto the Tuttle Creek Boulevard frontage road. No other changes to existing access are proposed along any other abutting street.

Traffic. A Traffic Impact Analysis was prepared by the applicant's consultant, Renaissance Infrastructure Consulting, dated October 18, 2012, (*attached*) evaluating the impact of the proposed land use change on the surrounding street network. (Note: The impact analysis was submitted with an application in late 2012, which was withdrawn and resubmitted in March 2013.) The consultant's conclusion is noted on page 14 of its analysis, in general, that the land use change will have minimal impact on the surrounding street network.

In addition, closing the northwestern two-way curb cut has a public benefit by eliminating a sight distance problem to the north and cut-through traffic from east to west along the driving aisle from Hayes Drive.

A memo (*attached*) dated May 1, 2013, from Peter Clark, P.E. PTOE, Civil Design Engineer, Manhattan Public Works Department, states,

“Traffic Impact Study

Staff is supportive of the reduction in the total number of driveways along Frontage Road and concurs with the analysis from each of the signalized and unsignalized intersections in the study.

The Traffic Impact Study should be stamped and signed by a professional engineer. I believe that there are plenty of qualified professional engineers on staff at Iteris, so this should not be a problem.

Site Plan

The engineer added a small bulb-out on the northeast corner of the parking area, directly adjacent to the northwest corner of the existing Staples building, per direction given by staff to address a safety concern with the blind corner. Staff requests that this bulb-out be located further west to allow westbound vehicles to see around the parked cars located along the western frontage of the building, and be extended south to help reinforce the "Left-Turn Only" design for the westbound traffic."

(Note: The consultant's engineer revised the bulb out and relocated it to the west. Vehicles traveling east to west from Hayes Drive along the northern access aisle will face a stop sign and no left turn sign as the driver approaches the bulb out. The original design did not allow drivers to see around the building before making a left turn movement. The revised design accommodates better vision and turning movements. Peter Clark, P.E. PTOE, Civil Design Engineer, Manhattan Public Works Department, reviewed the revised design and accepts the change, which was made at his direction.)

Off-Street Parking.

The proposed site plan, Sheet 1 of 4, shows 553 proposed off-street parking spaces. The existing condition site plan, Sheet 2 of 4, shows 644 off-street parking spaces with a net loss of 91 off-street parking spaces based on proposed and existing conditions. (Note: The latest amendment in 2004 proposed 643 off-street parking spaces as a result of the Tads Tropical Sno business.) In addition, seasonal storage was approved when Wal-Mart was a tenant and the applicant has proposed to delete seasonal storage, which may have reduced off-street parking for a period of time an annual basis if not removed as a temporary use

The Manhattan Zoning Regulations require at least 5.5 off-street parking spaces per 1,000 square feet of floor area. Gross floor area of the existing shopping center is noted on Sheet 1 of 4 at 145,900 square feet, including the proposed drive-in restaurant. The Manhattan Zoning Regulations allow computation of floor area for determining off-street parking requirements to deduct space devoted to storage, hallways, stairwells, elevators, bathrooms or mechanical rooms are deducted from gross floor area. Commercial spaces vary as occupants change, consequently net floor area can change dependent on the occupancy.

Based on existing gross floor space, 803 (802.5) off-street parking spaces would be required ($145,900/1,000 \times 5.5$), or 159 more spaces than currently exists. The existing gross floor area is 139,500 square feet (less the proposed 6,400 square feet of drive-in restaurant) which is a demand for 767 off-street parking spaces, a ratio of 4.6 parking

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spaces per 1,000 square feet. The addition of the drive-in restaurant reduces the overall total number of off-street parking spaces to 553 spaces, not including stacking for the drive-in window. Using the shopping center ratio method 145,900 square feet of gross floor area is a ratio of 3.8 parking spaces per 1,000 square feet of floor area.

The Planning Advisory Service Report Number 510/511, Parking Standards, notes a range of ratios from 3.3 parking spaces per 1,000 square feet of floor area up 6 parking spaces per 1,000 square feet of floor area. The PAS report cites 22 cities throughout the country. Based on the ranges cited, 3.8 parking spaces per 1,000 square feet of floor area are not unreasonable.

If parking demand was calculated on Manhattan Zoning Regulations retail space requirement, 1 parking space per 250 square feet of floor area, or 4 spaces per 1,000 square feet of net floor area. This ratio would be equivalent to 558 parking spaces for the existing commercial uses, and 52 for the restaurant based on the restaurant standard of 1 space per 3 person plus maximum employee shift, or 610 total parking spaces. This approach, however, is impractical due to the changing occupancy.

The elimination of seasonal outdoor storage and the expectation that net floor space would reduce the floor area, resulting in a ratio greater than 3.8 parking spaces per 1,000 square feet of floor area, could be expected. Based on casual observation, daily and weekend parking, parking tends to be centered towards the Hobby Lobby space. Underutilized parking is available in the southwest part of the parking lot and daily and weekend parking will to shift to that area.

5. OPEN SPACE/LANDSCAPED AND COMMON AREA: There is no common area other than the shared off-street parking lot. Landscaped space is primarily perimeter space along abutting streets and internal landscape islands.

6. CHARACTER OF THE NEIGHBORHOOD: The neighborhood is characterized as a commercial/industrial area, with commercial retail and service/commercial activities dominating the area to the south and north of the site between Hayes Drive and the Frontage Road and industrial and commercial services to the east of Hayes Drive. The neighborhood to the west of the site is a major street corridor.

MATTERS TO BE CONSIDERED WHEN REZONING

1. EXISTING USE: The existing use is a commercial shopping center with buildings located on the eastern side of the property, one out building generally in the southwest corner of the site, and off-street parking on the western side of the site. Historically, the site was the location of a Wal-Mart store, replaced by a Super Wal-Mart to the north, and Dillons' grocery store, replaced by a Dillons' store to the south. The PUD is currently occupied by a range of commercial and service commercial uses.

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2. PHYSICAL AND ENVIRONMENTAL CHARACTERISTICS: The site is generally a flat and slopes to the west southwest, and is a developed commercial site consisting primarily with roof and asphalt paving and perimeter landscaping and landscape islands.

Existing Lot 1 is in the 100 Year (1%) Flood Plain (Flood Insurance Rate Map FIRM) Number 20161C0366E, effective date November 19, 2003, Zone AH, flood depths of 1 to 3 feet usually from ponding. The Base Flood Elevation is 1008 National Geodetic Vertical datum (NGVD) feet. The proposed undated preliminary FIRM modifies the 1% zone to AE, Base Flood Elevations determined. The map change reduces the amount of Lot 1 affected by the 1% Flood, to an area west of the existing commercial buildings out to the frontage road, which includes the area of the proposed drive-in restaurant. The proposed BFE is 1008 feet.

3. SURROUNDING LAND USE AND ZONING:

(a.) **NORTH:** Commercial strip center and Super Wal-Mart; PUD.

(b.) **SOUTH:** Sarber Lane, hotel, grocery restaurant, and other service commercial uses; C-5, Highway Service Commercial District.

(c.) **EAST:** Hayes Drive, auto related service commercial, K-Mart; C-5, and PUD.

(d.) **WEST:** K-177 Tuttle Creek Boulevard and frontage road, Manhattan Marketplace; C-5, and PUD.

4. GENERAL NEIGHBORHOOD CHARACTER: See No. 6 above, **CHARACTER OF THE NEIGHBORHOOD.**

5. SUITABILITY OF SITE FOR USES UNDER CURRENT ZONING: The PUD is zoned and suitable for the existing uses, all of which are a Permitted Use in the C-2 District.

6. COMPATIBILITY OF PROPOSED DISTRICT WITH NEARBY PROPERTIES AND EXTENT TO WHICH IT MAY HAVE DETRIMENTAL AFFECTS: The proposed amendment is compatible with nearby properties because the PUD is in a highway service commercial environment accessed from three streets. The surrounding area is zoned to serve the motoring public in a manner consistent with higher traffic volumes. Some added light and minimal noise is expected with the additional drive-in restaurant. The proposed amendments are no different than those in the service commercial character of the area.

7. CONFORMANCE WITH COMPREHENSIVE PLAN: The site is designated as CC, Community Commercial, a designation intended to provide for a mix of retail and commercial services in a concentrated and unified setting. The existing PUD and proposed amendment conform to the Comprehensive Plan.

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

1969	Annexation/Zoned C-5, Service Commercial District and I-2, Industrial Park District
1971	Original Wal-Mart PUD established
1982	Planning Board approved Final Plat, Wal-Mart Addition
1990	Major expansion of Wal-Mart and establishment of new revised Wal-Mart Planned Unit Development (Ordinance No. 4630)
1991	Planning Board approved Wal-Mart Add., Unit 2 (<i>As-built replat</i>)
1993	Amend Wal-Mart PUD signage plan (Ord. No. 4828)
1996	Amend Wal-Mart PUD signage plan (Ord. No. 4993)
July 7, 1997	Planning Board recommends approval of building expansion for a Staples Office Store
Aug. 19, 1997	City Commission approves Ord. No. 5054 expansion for Staples
June 5, 2000	Planning Board recommends approval of an increase of outdoor storage for seasonal sales of landscape materials and a reduction of the required number of parking spaces during the 4 month display period.
June 20, 2000	City Commission approves first reading of the amendment to increase of outdoor storage for seasonal sales of landscape materials and a reduction of the required number of parking spaces during the 4 month display period.
July 11, 2000	City Commission approves Ordinance No. 6146.
July 19, 2004	Planning Board recommends approval of an amendment to allow "Tad's Tropical Sno" outbuilding in the southern part of the parking lot.
Aug. 3, 2004	City Commission approves first reading of amendment for Tad's Tropical Sno.
Aug. 17, 2004	City Commission approves Ordinance No. 6426 amendment for Tad's Tropical Sno.

9. CONSISTENCY WITH INTENT AND PURPOSE OF THE ZONING ORDINANCE: The intent and purpose of the Zoning Regulations is to protect the public health, safety, and general welfare; regulate the use of land and buildings within zoning districts to assure compatibility; and to protect property values. The PUD Regulations are intended to provide a maximum choice of living environments by allowing a variety of housing and building types; a more efficient land use than is generally achieved through conventional development; a development pattern that is in harmony with land use

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density, transportation facilities and community facilities; and a development plan which addresses specific needs and unique conditions of the site which may require changes in bulk regulations or layout. The proposed amendments are consistent with the PUD, subject to the conditions of approval.

The proposed second tenant sign, in addition, to the monument sign for Chick-fil-A, is consistent with the general rule for signs in commercial PUDs, which the Manhattan Zoning Regulations suggest follow the C-2 District requirements. The number of ground or pole signs allowed along a street in the C-2 District is:

“Ground or Pole signs: A total of one per zoning lot indicating only the name of the shopping center complex and/or the names of the occupants. A total of two such signs may be permitted when the total street frontage upon which the zoning lot abuts is in excess of 600 feet or when the zoning lot fronts on more than one street.”

(Note: At the Planning Board’s meeting on May 6, 2013, the applicant proposed and the Board found that the second multi-tenant sign and Chick-fil-A ground sign be replaced with a smaller monument sign in the northwest corner of the PUD limited to identification of Chick-fil-A, a reader board for Chick-fil-A, and tenant identification of Staples. The proposed change would be consistent with the C-2 District requirements for signs along a street frontage.)

10. RELATIVE GAIN TO THE PUBLIC HEALTH, SAFETY AND WELFARE THAT DENIAL OF THE REQUEST WOULD ACCOMPLISH, COMPARED WITH THE HARDSHIP IMPOSED UPON THE APPLICANT: There appears to be no adverse affects on the public and no relative gain would be accomplished by denial. If the improvements are made, it may be a hardship to the applicant if the amendments are denied.

11. ADEQUACY OF PUBLIC FACILITIES AND SERVICES: Adequate public sewer and water are available to serve the business.

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

13. STAFF COMMENTS: City Administration recommends approval of the proposed amendment of the Wal-Mart Planned Unit Development, and approval of the Final Development Plan of Manhattan Crossing, subject to the following conditions of approval:

1. A Drive-in restaurant, located in the northwestern portion of the PUD, shall be a Permitted Use, subject to all drawings and documents submitted as a part of the Final Development Plan application.

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2. Signage for the drive-in restaurant and the shopping center multi-tenant monument sign, located at the main western entrance of the PUD, shall be constructed as proposed in the Final Development Plan application documents. A smaller two-tenant monument sign proposed at the northwest corner of the PUD shall be constructed as proposed in the modified application documents.
3. Exempt signage shall include signage described in Article VI, Section 6-104 (A)(1),(2),(4),(5), and (7); and, Section 6-104 (B)(2) and B(5).
4. Landscaping and underground irrigation shall be maintained in good condition.
5. A landscape performance agreement shall be approved, prior to issuance of a building permit.

ALTERNATIVES:

1. Recommend approval of the proposed amendment of the Wal-Mart Planned Unit Development, and approval of the Final Development Plan of Manhattan Crossing, stating the basis for such recommendation.
2. Recommend denial of the proposed amendment of the Wal-Mart Planned Unit Development, and approval of the Final Development Plan of Manhattan Crossing, stating the specific reasons for denial.
3. Table the proposed Amendment to a specific date, for specifically stated reasons.

POSSIBLE MOTION:

The Manhattan Urban Area Planning Board recommends approval of the proposed amendment of the Wal-Mart Planned Unit Development, and approval of the Final Development Plan of Manhattan Crossing, based on the findings in the Staff Report, subject to the five conditions of approval recommended and modified by City Administration.

PREPARED BY: Steve Zilkie, AICP, Senior Planner

DATE: May 1, 2013. Revised May 13, 2013.

13036Revised

STAFF REPORT

ON AN APPLICATION TO REZONE PROPERTY

FROM: C-5, Highway Service Commercial District.

TO: I-2, Industrial Park District.

APPLICANT: SMH Consultants – Jeffrey Hancock, on behalf of the owner.

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

OWNERS: Connie L. Westgate –Westgate Auto Repair.

ADDRESS: 610 Hayes Drive.

LOCATION: Lot 4, Manhattan Industrial Park, Unit Four.

AREA: 50,155 square feet (1.15 acres).

DATE OF PUBLIC NOTICE PUBLICATION: Monday, April 15, 2013.

DATE OF PUBLIC HEARING: PLANNING BOARD: Monday, May 6, 2013.

CITY COMMISSION: Tuesday, May 21, 2013.

THIRTEEN MATTERS TO BE CONSIDERED WHEN REZONING

- 1. EXISTING USE:** The lot is developed with an approximately 5,200 square foot building and accessory off-street parking lot on it. The lot shares a private access driveway with four (4) adjacent businesses. Manko Window and Door Systems have proposed to locate a wood window manufacturing facility and an associated wood window showroom in the existing building.
- 2. PHYSICAL AND ENVIRONMENTAL CHARACTERISTICS:** The site is a rectangular shaped lot on the east side of Hayes Drive. The site is generally flat. A shallow drainage area is located along the east property line. The site is shown on the effective Flood Insurance Rate Map (FIRMs) panel number 0366E as being located in the AH, 1% Annual Chance Floodplain due to ponding. The preliminary FIRMs of the Riley County Flood Insurance Study update shows the site to be in the Zone X, Protected by Levee Floodplain.

3. SURROUNDING LAND USE AND ZONING:

NORTH: Automotive Repair Businesses, Service Circle right-of-way and Manko Window system manufactures facility; C-5, Highway Service Commercial District and I-2, Industrial Park District.

SOUTH: Automotive Repair Businesses and the K-Mart Shopping Center C-5, Highway Service Commercial District and K-Mart PUD; Commercial Planned Unit Development.

EAST: K-Mart Shopping Center and Plaza East Shopping Center; K-Mart PUD, Commercial Planned Unit Development and C-2, Neighborhood Shopping District.

WEST: Hayes Drive right-of-way and commercial retail and professional business uses; C-5, Highway Service Commercial District and Wal-Mart PUD, Commercial Planned Unit Development.

4. GENERAL NEIGHBORHOOD CHARACTER: The immediate area is a mix of vacant commercial lots, service repair businesses, Manko Window Systems manufacturing business and other retail commercial uses.

5. SUITABILITY OF SITE FOR USES UNDER CURRENT ZONING: The site meets the minimum lot size and area requirements for the C-5, Highway Service Commercial District. The applicant's client has proposed to renovate the building to house Manko Window System's wood window production and accessory showroom. The window manufacturing use is not permitted in the C-5 District, thus the need for the proposed rezoning to I-2, Industrial Park District.

6. COMPATIBILITY OF PROPOSED DISTRICT WITH NEARBY PROPERTIES AND EXTENT TO WHICH IT MAY HAVE DETRIMENTAL AFFECTS: The proposed rezoning from C-5, Highway Service Commercial District to I-2 Industrial Park District is compatible with the surrounding properties. The I-2 District is designed to allow for a broad range of manufacturing and research activities in a large lot industrial park setting. The lot immediately to the north of the site is zoned C-5 District. The current uses found in the C-5 District in the area are service repair uses associated with Manko Window Systems or the automotive repair industry. The current uses are of a light industrial nature and compatible with the I-2 District. The commercial retail uses to the east of the site face U.S. Highway 24 to the southeast. The commercial retail and business professional uses to the west face Tuttle Creek Boulevard. Only the rear of these commercial buildings can be seen from the site.

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The proposed rezoning should not result in any detrimental effects related to traffic, light or noise when compared to the permitted uses allowed in the C-5 District, which the site is currently zoned. The intent of the applicant's client is to renovate the building to house Manko Window System's wood window production and accessory showroom; however, any of the permitted or conditional uses of the I-2 District would be allowed.

- 7. CONFORMANCE WITH COMPREHENSIVE PLAN:** The site is shown on the future land use map in the northeast planning area as Commercial Center (CC). The I-2 District falls within the Industrial (IND) land use designation of the Comprehensive Plan.

The CC and IND policies are set out below in *italics* and ***bold italics***.

COMMUNITY COMMERCIAL (CC)

CC 1: Characteristics

Community Commercial Centers provide a mix of retail and commercial services in a concentrated and unified setting that serves the local community and may also provide a limited draw for the surrounding region. These centers are typically anchored by a larger national chain, between 120,000 and 250,000 square feet, which may provide sales of a variety of general merchandise, grocery, apparel, appliances, hardware, lumber, and other household goods. Centers may also be anchored by smaller uses, such as a grocery store, and may include a variety of smaller, complementary uses, such as restaurants, specialty stores (such as books, furniture, computers, audio, office supplies, or clothing stores), professional offices and health services. The concentrated, unified design of a community commercial center allows it to meet a variety of community needs in a "one-stop shop" setting, minimizing the need for multiple vehicle trips to various commercial areas around the community. Although some single use highway-oriented commercial activities will continue to occur in some areas, this pattern of development is generally not encouraged.

CC 2: Location

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

CC 3: Size

Typically require a site of between 10 and 30 acres.

CC 4: Unified Site Design

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

CC 5: Architectural Character

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

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

CC 6: Organization of Uses

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

CC 7: Parking Design and Layout

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

CC 8: Circulation and Access

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

Employment: Industrial and Office

BACKGROUND AND INTENT

Employment uses within the Urban Area are intended to provide concentrated areas of high quality employment facilities for uses such as office headquarters, research and development facilities, and educational facilities, as well as locations for light and heavy manufacturing, warehousing and distribution, indoor and screened outdoor storage, and a wide range of other industrial services and operations.

INDUSTRIAL (IND)

I 1: Characteristics

The Industrial designation is intended to provide locations for light and heavy manufacturing, warehousing and distribution, indoor and screened outdoor storage, and a wide range of other industrial services and operations. Typically, heavy industrial uses involve more intensive work processes, and may involve manufacturing or basic resource handling and/or extraction. Design controls within an Industrial area are not as extensive as in the Office/Research Park category and a broader range of uses is permitted.

I 2: Location

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

I 3: Screening

Storage, loading and work operations should be screened from view along all industrial area boundaries (when adjacent to non-industrial uses) and along all public streets.

The immediate area along Hayes Drive and Service Circle consist of service commercial uses associated with the automotive repair industry, which are compatible with the I-2 District. Many of the factors of the CC policies do not apply to the area along Hayes Drive because the policies relate to shopping centers.

To the north of the subject site are areas in the I-2 Zoning District, including Lot 4, Manhattan Service Park Addition at the end of Service Circle, for which first reading will be considered on May 7, 2013, to rezone from C-5 to I-2.

The proposed I-2 District is in general conformance to the Comprehensive Plan.

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

July 1, 1969	City Commission approved Ordinance No. 2652 annex area that includes the site into the City and rezone the area to E, Light Industrial District
July 15, 1969	City Commission approves Ordinance No. 2658 which established a new Zoning Ordinance for the City. The new Zoning Ordinance rezoned the site from E, Light Industrial District to I-3, Light Industrial District
December 16, 1969	Manhattan City Commission approves Ordinance No. 2692 to rezone an area, including the site from I-3 District to I-2, Industrial Park District
October 7, 1985	Manhattan Urban Area Planning Board approves the Preliminary Plat of Manhattan Industrial Park Addition, Unit 4 and recommends approval to rezone the area of the Preliminary Plat from I-2 District to C-5 District.
November 5, 1985 to present	City Commission approves the ordinance to rezone the area from I-2 District to C-5 District.

9. CONSISTENCY WITH INTENT AND PURPOSE OF THE ZONING ORDINANCE:

The intent and purpose of the Manhattan 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 I-2, Industrial Park District is designed to allow for a broad range of manufacturing and research activities in a large lot industrial park setting. The I-2 District's minimum lot size is one (1) acre; minimum lot width is one hundred (100) feet; and a minimum lot depth is one hundred fifty (150) feet. The new lot will meet and exceed the minimum requirements of the I-2 District.

Section 15-103(B) lists the minimum requirements for an application to request a zoning change. The requirements are:

No application for amendment to change the zoning classification of any lot, parcel or tract of land shall be accepted unless such lot, parcel or tract has 100 feet of frontage on a public street, or has 10,000 square feet of area, or abuts a lot, parcel or tract of land that has the same zoning classification as that which is proposed for the property which is the subject of the proposed amendment.

The site has 106 feet of frontage on Hayes Drive and is approximately 50,100 square feet in area.

The proposed rezoning is consistent with the Manhattan Zoning Regulations.

- 10. RELATIVE GAIN TO THE PUBLIC HEALTH, SAFETY AND WELFARE THAT DENIAL OF THE REQUEST WOULD ACCOMPLISH, COMPARED WITH THE HARDSHIP IMPOSED UPON THE APPLICANT:** There appears to be no relative gain to the public that denial would accomplish compared to the hardship of denial upon the applicant. The applicant's client is proposing to start a wood window manufacturing facility and showroom associated with Manko Windows System. It would be a hardship upon the applicant and property owner to deny the proposed rezoning in a neighborhood, which has developed with a mix of commercial and industrial uses.
- 11. ADEQUACY OF PUBLIC FACILITIES AND SERVICES:** There are adequate public facilities and services to serve the site.
- 12. OTHER APPLICABLE FACTORS:** None
- 13. STAFF COMMENTS:** City Administration recommends approval of the proposed rezoning of Lot 4, Manhattan Industrial Park, Unit Four from C-5, Highway Service Commercial District, to I-2, Industrial Park District, based on the findings in the Staff Report.

ALTERNATIVES:

- i. Recommend approval of the proposed rezoning of Lot 4, Manhattan Industrial Park, Unit Four from C-5, Highway Service Commercial District, to I-2, Industrial Park District, stating the basis for such recommendation.

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- ii. Recommend denial of the proposed rezoning, stating the specific reasons for denial.
- iii. Table the proposed rezoning to a specific date, for specifically stated reasons.

POSSIBLE MOTION:

The Manhattan Urban Area Planning Board recommends approval of the proposed rezoning of Lot 4, Manhattan Industrial Park, Unit Four from C-5, Highway Service Commercial District, to I-2, Industrial Park District, based on the findings in the Staff Report.

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

DATE: April 26, 2013

CB/vr
13039

STAFF REPORT

ON AN APPLICATION TO REZONE PROPERTY

FROM: R-3, Multiple-Family Residential District.

TO: R-2, Two-Family Residential District.

APPLICANT: Jeff Hancock – SMH Consultants

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

OWNER: Overlay Properties Inc. - Russel Weisbender

ADDRESS: 1812 Fair Lane, Manhattan, KS 66502.

LOCATION: Generally located 500 feet east of the intersection of Donnas Way and Northfield Road or 150 feet west of the intersection of Brookpark Drive and Northfield Road

AREA: 9.90 acres

DATE OF PUBLIC NOTICE PUBLICATION: April 15, 2013

DATE OF PUBLIC HEARING: PLANNING BOARD: May 6, 2013

CITY COMMISSION: May 21, 2013

THIRTEEN MATTERS TO BE CONSIDERED WHEN REZONING

- 1. EXISTING USE:** Developing, residential neighborhood. The site is currently an undeveloped tract.
- 2. PHYSICAL AND ENVIRONMENTAL CHARACTERISTICS:** The site is generally flat and drains to the south towards Prairie Lake. The area is developing with new streets and utilities for residential developments.
- 3. SURROUNDING LAND USE AND ZONING:**
 - (1) NORTH:** Brookfield Residences' apartments, Walters Drive, Eisenhower Middle School and City of Manhattan playing fields and single-family dwellings ; Residential PUD, and R-1, Single-Family Residential Districts.

- (2) **SOUTH:** Prairie Lakes and developing residential neighborhood of two family dwellings; R-2 District.
- (3) **EAST:** Brookfield single-family subdivisions; R-1 Districts.
- (4) **WEST:** Developing single-family and two-family portion of Prairie Lakes, Unit 6 and 3, single-family and two-family homes in the Northfield Additions, and Butterfield Road; R-3, Multiple-Family Residential District and R-2 District.

4. GENERAL NEIGHBORHOOD CHARACTER: The surrounding neighborhood can be generally characterized as a developing low-density residential neighborhood. An existing multiple-family apartment is located immediately to the north. Eisenhower Middle School and the baseball complex are located to the northwest and is part of the established residential neighborhood. Areas of Prairie Lakes to the immediate west and to the south are under development as single-family, single-family attached and two-family dwellings.

The area to be rezoned is currently undeveloped. The area was originally described as Prairie Lakes, Unit 6 on the approved Preliminary Plat. **THE PROPOSED FINAL PLAT RENAMES THE AREA FROM UNIT 6, DESCRIBED IN THE PRELIMINARY PLAT, TO NORTHLAKE ADDITION.** The applicant has submitted the Final Plat of Northlake Addition, Unit 1 to subdivide a portion of the vacant tract into 20 single-family lots (see Northlake Addition, Unit 1 memorandum).

- 5. SUITABILITY OF SITE FOR USES UNDER CURRENT ZONING:** The site is suitable under its currently zoning district regulations. The R-3 District allows for a wide variety of residential uses, including single-family, two-family and multiple-family.
- 6. COMPATIBILITY OF PROPOSED DISTRICT WITH NEARBY PROPERTIES AND EXTENT TO WHICH IT MAY HAVE DETRIMENTAL AFFECTS:** The surrounding properties consist of low-density residential uses with single-family, single-family attached and two-family dwellings in the Brookfield, Prairie Lakes and Butterfield neighborhoods. The lone exception is the Brookfield Residents apartment complex immediately to the north of the site. The proposed Final Plat of Northlake Addition, which is accompanying this rezoning request shows 20 single-family residential lots. The rezoning may reduce the impacts of traffic, light and noise compared to the high density uses allowed in the R-3 District. The proposed rezoning will be compatible with existing R-1 and R-2 Districts in the nearby low-density residential neighborhoods.

- 7. CONFORMANCE WITH COMPREHENSIVE PLAN: THE NORTHEAST PLANNING AREA FUTURE LAND USE MAP OF THE MANHATTAN URBAN AREA COMPREHENSIVE PLAN SHOWS THE REZONING SITE AS RESIDENTIAL LOW/MEDIUM DENSITY (RLM). THE DENSITY RANGE FOR THE RLM DESIGNATION IS ONE-DWELLING UNIT UP TO ELEVEN DWELLING UNITS PER NET ACRE. THE EXISTING R-3 DISTRICT ALLOWS MORE THAN 19 DWELLING UNITS PER NET ACRE. (NOTE: AS A PART OF THE ANNEXATION, REZONING TO R-3 DISTRICT AND PLATTING, THE OWNER FILED A RESTRICTIVE COVENANT WITH THE RILEY COUNTY REGISTER OF DEEDS (BOOK 817, PAGE 4154 – 4156), WHICH LIMITS DENSITY TO NO MORE THAN 18 DWELLING UNITS PER NET ACRE. THE SITE IS ADJACENT TO AN AREA IN THE NORTHEAST PLANNING AREA FUTURE LAND USE MAP THAT IS SHOWN AS BEING IN THE RMH CATEGORY, WHICH RECOMMENDS A DENSITY RANGE OF ELEVEN TO 19 UNITS PER ACRE. THE PROPOSED R-2 DISTRICT IS MORE RESTRICTIVE THAN THE COVENANT.)**

APPLICABLE RLM POLICIES (IN ITALICS) OF THE COMPREHENSIVE PLAN INCLUDE:

Residential Low/Medium Density (RLM)

RLM 1: Characteristics

The Residential Low/Medium Density designation incorporates a range of single-family, single-family attached, duplex, and town homes, and in appropriate cases include complementary neighborhood-scale supporting land uses, such as retail, service commercial, and office uses in a planned neighborhood setting, provided they conform with the policies on Neighborhood Commercial Centers. Small-scale multiple-family buildings and condominiums may be permissible as part of a planned unit development, or special mixed-use district, provided open space requirements are adequate to stay within desired densities.

RLM 2: Appropriate Density Range

Densities in the Residential Low/Medium designation range between less than one dwelling unit/acre up to 11 dwelling units per net acre.

RLM 3: Location

Residential Low/Medium Density neighborhoods typically should be located where they have convenient access and are within walking distance to community facilities and services that will be needed by residents of the neighborhood, including schools, shopping areas, and other community facilities. Where topographically feasible, neighborhoods should be bounded by major streets (arterials and/or collectors) with a direct connection to work, shopping and leisure activities.

RLM 3: Variety of Housing Styles

To avoid monotonous streetscapes, the incorporation of a variety of housing models and sizes is strongly encouraged in all new development.

The Final Plat of the Northlake Addition, Unit 1 consists of 20 single-family lots on 3.97 net acres. The proposed residential density is five (5) dwelling units per net acre. The Concept Plat of the remaining area of the vacant tract shows a similar density of single-family residential development.

The proposed rezoning conforms to the Comprehensive Plan.

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

- | | |
|-----------------|---|
| April 4, 2005 | Manhattan Urban Area Planning Board recommends approval 5-0 of annexation and rezoning of Prairie Lakes from G-1, General Agricultural District, and PDD, Planned Development District, to R-2, Two-Family Residential District, and from G-1, General Agricultural District, to R-3, Multiple-Family Residential District. |
| April 18, 2005 | Manhattan Urban Area Planning Board considers the Preliminary Plat of Prairie Lakes |
| April 19, 2005 | City Commission approves first reading of annexation and rezoning of Prairie Lakes on a vote of 5-0. |
| May 3, 2005 | City Commission approves Ordinance No. 6471 annexing and Ordinance Nos. 6472 & 6473 rezoning Prairie Lakes. |
| June 6, 2005 | Manhattan Urban Area Planning Board approves the Final Plats of Prairie Lakes Addition, Units 1 and Unit 2. |
| June 21, 2005 | City Commission accepts the easements and rights-of-ways as shown on the Final Plats of Prairie Lakes Addition, Units 1 and Unit 2. |
| August 7, 2006 | Manhattan Urban Area Planning Board approves the Final Plat of Prairie Lakes Addition, Unit 3. |
| October 3, 2006 | City Commission accepts the easements and rights-of-way as shown on the Final Plat of Prairie Lakes Addition, Unit 3. |

Attachment No. 3

- January 18, 2007 Manhattan Urban Area Planning Board approves Final Plat of Prairie Lakes Addition, Unit 4.
- February 6, 2007 City Commission considers consent to replat, accepts revised restrictive covenant and accepts easements and rights-of-way on Final Plat of Prairie Lakes Addition, Unit 4.
- June 1, 2009 Manhattan Urban Area Planning Board recommends approval 6-0 of the rezoning of the eastern portion of Prairie Lakes Addition, Unit 3, from R-3, Multiple-Family Residential District, to R-2, Two-Family Residential District; and, approves reinstatement and extension of the effective period of approval of the previously approved Preliminary Plat of the Prairie Lakes Addition.
- June 16, 2009 City Commission approves first reading of rezoning of the eastern portion of Prairie Lakes Addition, Unit 3, from R-3, Multiple-Family Residential District, to R-2, Two-Family Residential District.
- July 7, 2009 City Commission approves Ordinance No. 6767 rezoning the eastern portion of Prairie Lakes Addition, Unit 3, from R-3, Multiple-Family Residential District, to R-2, Two-Family Residential District.
- November 15, 2010 Manhattan Urban Area Planning Board approves Final Plat of Prairie Lakes Addition, Unit 5.
- December 7, 2010 City Commission accepts easements and rights-of-way on Final Plat of Prairie Lakes Addition, Unit 5.
- July 2, 2012 Manhattan Urban Area Planning Board approves Final Plat of Prairie Lakes Addition, Unit 6.
- July 17, 2012 City Commission accepts easements and rights-of-way on Final Plat of Prairie Lakes Addition, Unit 6.

9. CONSISTENCY WITH INTENT AND PURPOSE OF THE ZONING ORDINANCE:

The intent and purpose of the Zoning Regulations is to protect the public health, safety, and general welfare; regulate the use of land and buildings within zoning districts to assure compatibility; and to protect property values. The R-2, Two-Family Residential

District, is designed to provide a dwelling zone at a density no greater than two (2) attached dwelling units per 7,500 square feet. Minimum lot area for single-family lot is 6,000 square feet. The minimum lot area for a single-family attached lot is 3,750 square feet per lot. The Final Plat of Northlake Addition, Unit 1 provides for single-family lots that is sufficient in area to conform to the R-2 District requirements. Lot sizes will allow single-family dwelling and two-family dwellings. The Concept Plat provided with the application documents shows similar lots sizes for the remaining vacant tract.

- 10. RELATIVE GAIN TO THE PUBLIC HEALTH, SAFETY AND WELFARE THAT DENIAL OF THE REQUEST WOULD ACCOMPLISH, COMPARED WITH THE HARDSHIP IMPOSED UPON THE APPLICANT:** There appears to be no gain to the public that denial would accomplish. No adverse affects on the public health, safety and welfare are known. It may be a hardship upon the owner if the rezoning is denied.
- 11. ADEQUACY OF PUBLIC FACILITIES AND SERVICES:** Adequate street, sanitary sewer and water services are available to serve the rezoning site.
- 12. OTHER APPLICABLE FACTORS:** None
- 13. STAFF COMMENTS:** City Administration recommends approval of the proposed rezoning of Northlake Addition from R-3, Multiple-Family Residential District to R-2, Two-Family Residential District based on the findings in the Staff Report.

ALTERNATIVES:

1. Recommend approval of the proposed rezoning of Northlake Addition from R-3, Multiple-Family Residential District to R-2, Two-Family Residential District, stating the basis for such recommendation.
2. Recommend denial of the proposed rezoning, stating the specific reasons for denial.
3. Table the proposed rezoning to a specific date, for specifically stated reasons.

POSSIBLE MOTION:

The Manhattan Urban Area Planning Board recommends approval of the proposed rezoning of Northlake Addition from R-3, Multiple-Family Residential District to R-2, Two-Family Residential District, based on the findings in the Staff Report.

Attachment No. 3

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

DATE: April 24, 2013

CB/vr
13037

AMENDMENT OF A COMMERCIAL PLANNED UNIT DEVELOPMENT

APPLICANT/OWNER: Davidson Architecture & Engineering, LLC – Chris Hafner, on behalf of the Owner: Surplus Investor\’s of Manhattan, LLC – Hunter Harris

APPLICANT’S ADDRESS: The applicant’s address is 11301 Strang Line Rd, Lenexa, KS, 66215

OWNER’S ADDRESS: The owner’s address is 4705 Central, Kansas City, MO 64112.

REQUEST: The applicant/owner has requested an amendment of Ordinance No. 6263 to construct a proposed PetSmart store on Lot 2 in the Manhattan Plaza Commercial Planned Unit Development. Condition No. 4 of the ordinance states, “Prior to the development of Lot 2, an amendment of the PUD shall be submitted and will need to be approved, prior to issuing any necessary permits.” The amendment is in the form of a Final Development Plan.

LOCATION: Generally south of Home Depot along the east side of the Seth Child Road frontage road.

LEGAL DESCRIPTION: Lot 2, Manhattan Plaza, an Addition to the City of Manhattan, Riley County, Kansas.

AREA: 110,654.72 square feet (2.54 acres).

DATE OF NEIGHBORHOOD MEETING: February 13, 2013.

DATE OF PUBLIC NOTICE PUBLICATION: Monday, April 29, 2013.

DATE OF PUBLIC HEARING: PLANNING BOARD: Monday, May 20, 2013.
CITY COMMISSION: Tuesday, June 4, 2013.

EXISTING PUD

Ordinance No.

The PUD is subject to Ordinance No. 6263, adopted May 7, 2002 (*attached*).

Permitted Uses

Permitted Uses in the PUD include a Home Depot and outdoor garden center on Lot 1, and all of the Permitted and Conditional Uses of the C-2, Neighborhood Shopping District (*attached*).

PROPOSED AMENDMENT

Proposed Use and Building: The uses proposed with PetSmart include: (1) retail sales of small pets, pet food, supplies and accessories; (2) pet grooming; (3) pet training; and, (4) adoption (partnership with local rescue/humane society). The proposed uses are consistent with the C-2 District either as a permitted, conditional or accessory use to the principal use, a retail pet store.

The proposed structure is a one story, approximate 21-foot tall commercial building, constructed of concrete masonry unit block walls and EFIS entry. The building is generally shades of brown. Floor area of the structure is 12,154 square feet, which is primarily retail floor area.

PROPOSED SIGNS: Proposed signs are two internally illuminated channel letter wall signs over the front door entrance “PetSmart” (203 sf) and “Grooming” (18 sf), a total 221 square feet in sign area. Based on the general guidance for PUD’s, the C-2 District sign regulations, a sign no greater than 30% of the façade is allowed. Façade area is 2,393 square feet, which would allow up to 718 square feet of wall sign area. The proposed two wall signs are more than the general guidance of one permitted wall sign in C-2, but significantly less in sign area than would otherwise be allowed.

A 30 foot tall PetSmart pole sign, with pole enclosed with masonry to match the building materials is proposed along the frontage road. The sign portion is an internally illuminated 60 square foot sign. The base of the pole sign is landscaped.

Exempt signs will be added to the allow to those types of signs described in Article VI, Section 6-104 (A)(1),(2),(4),(5), and (7); and, Section 6-104 (B)(2) and B(5) (*attached*). These signs generally include governmental flags, address numerals, directional signs, seasonal lights and decorations, real estate and construction signs, and political signs.

PROPOSED LIGHTING: Parking lot and building lights are shaded and generally downcast.

MATTERS TO BE CONSIDERED WHEN AMENDING A PLANNED UNIT DEVELOPMENT

1. WHETHER THE PROPOSED AMENDMENT IS CONSISTENT WITH THE INTENT AND PURPOSE OF THE APPROVED PUD, AND WILL PROMOTE THE EFFICIENT DEVELOPMENT AND PRESERVATION OF THE ENTIRE PUD: The intent and purpose of the PUD is to allow all of the permitted and conditional uses of the C-2 District on Lot 2, subject to approval of an amendment. The amendment is necessary because no structures, signs, landscaping, lighting or other improvements, as required by the Manhattan Zoning Regulations, Article IX, Planned development Districts, were proposed with the PUD for Lot 2 at the time of rezoning in 2002, The amendment reflects an efficient development pattern consistent with the intent and purpose of the PUD, which is for uses allowed in the C-2 District. The proposed development preserves the character of Lot 2 as a commercial lot.

2. WHETHER THE PROPOSED AMENDMENT IS MADE NECESSARY BECAUSE OF CHANGED OR CHANGING CONDITIONS IN OR AROUND THE PUD, AND THE NATURE OF SUCH CONDITIONS: The amendment is necessary because Condition 4 of the ordinance requires that prior to issuance of any permits, an amendment of Lot 2 must be approved.

A second changing condition to the Lot 2, which makes the amendment necessary, is its location in the Floodplain and the requirement to elevate and protect the lowest enclosed floor to at least one foot above the base Flood Elevation (BFE), either by elevation on fill or flood proofed.

Adopted Flood Plain Maps

The changed conditions on Lot 2 include the adoption of Flood Insurance Rate Map Panel 20161C0361 F, dated February 1, 2005, and. Zone AE, 1% Annual Chance Floodplain, commonly known as the 100 Year flood plain, is located on the south and east part of Lot 2. Zone AE, in this instance, is that part of the Floodplain defined in the Manhattan Zoning Regulations as Floodway Fringe District, or the buildable part of the 100 Year Floodplain. The adopted base flood elevation (BFE) is 1027.5 feet. Adjoining the adopted Zone AE is Zone X, 0.2% Annual Chance Floodplain, commonly referred to as 500 Year Floodplain, and is not regulated for building permit purposes.

Proposed Flood Plain Maps

The City of Manhattan and Riley County are in the process of reviewing Preliminary Flood Maps. It's anticipated that Preliminary Map review will begin July, 2013. The proposed undated flood plain map affecting Lot 2 is on Panel 361 of 500. Preliminary maps are scheduled to be distributed on June 8, 2013 for Official community review and adoption in late 2013 or 2014.

The City had a flood model created to analyze flooding based on full build-out as shown on the Future Land Use Maps of the Manhattan Urban Area Comprehensive Plan. The Preliminary Maps represent the flood model as Zone X (Future), which equates to the Future Conditions 1% Annual Chance Floodplain. Proposed Zone AE's BFE on the Preliminary Map is 1026.74 feet and proposed Future Conditions 1% BFE is 1032.5 feet. Based on the most current updated Floodplain Map, the majority of the building will be in the Future Conditions 1% Floodplain with a small portion in Zone AE. Finished floor elevation of the structure, its lowest enclosed floor, is shown at 1035 feet in order to comply with future Zone AE and Future Conditions 1% Annual Chance Floodplains. (See attached current preliminary Floodplain map with Future 1% and AE and building footprint.)

3. WHETHER THE PROPOSED AMENDMENT WILL RESULT IN A RELATIVE GAIN TO THE PUBLIC HEALTH, SAFETY, CONVENIENCE OR GENERAL WELFARE, AND IS NOT GRANTED SOLELY TO CONFER A SPECIAL BENEFIT UPON ANY PERSON: The amendment will result in a relative gain to the public by protecting the structure to above 1% Future Conditions flood plain characteristics. The structure is a minimal and allowed encroachment into the existing 100 year flood plain and represents compliance with 1% Future Conditions flood plain. The applicant prepared an analysis described under **DRAINAGE**, which indicates minimal impact in Wildcat Creek flood plain.

ADDITIONAL MATTERS TO BE CONSIDERED WHEN AMENDING A PLANNED UNIT DEVELOPMENT

- 1. LANDSCAPING:** A variety of shade and ornamental trees, evergreen trees, grass lawn, evergreen shrubs and flowering plants are shown on the landscape plan. Irrigation is underground sprinkling system.
- 2. SCREENING:** A trash enclosure southwest of the building will be constructed of masonry walls six feet in height with metal gates.
- 3. DRAINAGE:** The site currently drains to the southeast to a large ravine connecting with Wildcat Creek. The proposed site development maintains the same pattern of runoff. The applicant prepared an analysis for impacts to existing and future ultimate 100 year flood plain conditions dated April 5, 2013 (*application document attached*). The analysis was reviewed by the Public Works Department. A memo (*attached*) dated May 14, 2013, from Shane Swope P.E. Stormwater Engineer, Manhattan Public Works Department, states,

“Davidson Architecture and Engineering prepared an engineering study on April 5, 2013 to analyze the floodplain impact of the proposed development for the Petsmart Store. A portion of the proposed building footprint is in the ultimate 1% storm event floodplain map”

“Davidson Engineering performed a hydraulic analysis to determine if the proposed development will create a rise in the water surface elevation on Wildcat Creek. A model was created using the hydrologic conditions for the proposed development. The model demonstrated no rise in the water surface elevation on Wildcat Creek. The net increase in surface runoff volume from to the proposed development is very small in comparison to the water volume in Wildcat Creek on a 1% flood event. The result was a net no rise condition to the Wildcat Creek floodplain. City Staff has reviewed and accepts the engineering report for impacts to Wildcat Creek.”

4. CIRCULATION: Public Access. The proposed internal circulation plan provides for safe, convenient and efficient movement of goods, motorists, bicyclists, and pedestrians, and reduces conflicts between motorists and pedestrians. Internal access to Lot 2 is over Lot 1. A permanent accessway over Lot 1 was created between Home Depot and the original developer of the PUD. Access to Lot 1 is from a curb cut off the frontage road.

A concrete sidewalk exists along the east side of the frontage road and a new concrete sidewalk on Lot 2 will connect the public sidewalk and extend to the front door of the PetSmart store.

Bike racks are provided on the front entrance sidewalk area at the southwest corner of the building.

Traffic. A Trip Generation Comparison, dated February 27, 2013 (*application document attached*) was prepared for the applicant by Kaw Valley Engineering, who prepared the original traffic analysis in 2002, with the PUD rezoning. The traffic generation for a PetSmart was compared to the original analysis, which considered a drive-in restaurant on Lot 2. The consultant’s results show the PetSmart generating fewer peak hour trips than a fast food restaurant..

A memo (*attached*) dated May 14, 2013, from Peter Clark, P.E. PTOE, Civil Design Engineer, Manhattan Public Works Department, states,

“The traffic impact analysis indicates a reduction in trips from the original development. This reduction will reduce the development's total projected traffic impact on the adjacent roadways. Staff accepts this analysis without exception.”

Off-Street Parking.

There are 60 off-street parking spaces proposed for the free standing retail store based on one off-street parking space per 250 square feet of floor area. The minimum number of required spaces is 49 parking spaces. Proposed off-street parking is adequate for the retail use.

5. OPEN SPACE/LANDSCAPED AND COMMON AREA: The development site will be composed of professional landscaped space and natural areas.

6. CHARACTER OF THE NEIGHBORHOOD: The neighborhood is characterized by highway commercial development along the east side of Seth Child Road from the Seth Child Road/Wildcat Creek overpass to the Town West Shopping Center, which is immediately north of the site. Along the east side of Seth Child Road, commercial development extends eastward from Seth Child Road to the Linear Park Trail. A veterinary out-patient clinic is to the immediate south. Further south is the Riley County Law Enforcement Center. The area to the west of Seth Child Road is a shopping center.

MATTERS TO BE CONSIDERED WHEN REZONING

1. EXISTING USE: The site is a vacant undeveloped tract of land within the approved PUD, subject to requirements of Ordinance No. 6263.

2. PHYSICAL AND ENVIRONMENTAL CHARACTERISTICS: The site is east of and adjacent to the Seth Child Road frontage road. The existing site slopes to the east southeast and drains to a large and deep natural ravine along the southern edge of Lot 2, which provides drainage to Wildcat Creek from Lot 2, and areas to the west. There are large mature deciduous trees along and within the ravine. Portions of Lot 2 are in the adopted 1% annual chance flood plain with lesser amounts in the 0.2% annual chance floor plains, and in proposed 1% Future Conditions flood plain and 1% flood plain. There is no Floodway existing or proposed on Lot 2.

3. SURROUNDING LAND USE AND ZONING:

(a.) NORTH: Home Depot, strip shopping center, bank, real estate, business and professional offices, public utility; PUD, I-3, Light Industrial District, and, C-2, Neighborhood Shopping District.

(b.) SOUTH: Veterinary out-patient clinic, and Riley County Law Enforcement Center: C-5 and R Districts.

(c.) **EAST:** Linear Trail, undeveloped single-family, 100 Year Flood Plain, Wildcat Creek; R District.

(d.) **WEST:** Seth Child Road, shopping center; PUD.

4. CHARACTER OF THE NEIGHBORHOOD: See No. 6 above, **CHARACTER OF THE NEIGHBORHOOD.**

5. SUITABILITY OF SITE FOR USES UNDER CURRENT ZONING: The PUD allows all of the permitted and conditional uses of the C-2 District, subject to approval of an amendment of the PUD, Condition No. 4, Ordinance No. 6263.

6. COMPATIBILITY OF PROPOSED DISTRICT WITH NEARBY PROPERTIES AND

EXTENT TO WHICH IT MAY HAVE DETRIMENTAL AFFECTS: The proposed commercial development of the site is consistent with the commercial nature of the area along the east and west sides of Seth Child Road. Increases in light, noise and traffic should be expected, because the site is currently undeveloped, but should not adversely affect adjoining commercial properties to the north and south and a municipal facility (Riley County Law Enforcement Center) to the south at the dead-end of the frontage road.

7. CONFORMANCE WITH COMPREHENSIVE PLAN: In 2002 the entire PUD, including Lot 2, was found to conform with the Land Use Element of the Comprehensive Plan in effect. The area in which the PUD was located was designated as GC, General Commercial. The GC category related to commercial businesses serving the entire community and frequently located along major highways.

The current Comprehensive Plan was adopted April 2003. The Future Land Use Map for the Southwest Planning Area of the Manhattan Urban Area Comprehensive Plan shows Lot 2 as Community Commercial (CC). Policies of the CC category include:

COMMUNITY COMMERCIAL (CC)

CC 1: Characteristics

Community Commercial Centers provide a mix of retail and commercial services in a concentrated and unified setting that serves the local community and may also provide a limited draw for the surrounding region. These centers are typically anchored by a larger national chain, between 120,000 and 250,000 square feet, which may provide sales of a variety of general merchandise, grocery, apparel, appliances, hardware, lumber, and other household goods. Centers may also be anchored by smaller uses, such as a grocery store, and may include a variety of smaller, complementary uses, such as restaurants, specialty stores (such as books, furniture, computers, audio, office supplies, or clothing

stores), professional offices and health services. The concentrated, unified design of a community commercial center allows it to meet a variety of community needs in a “one-stop shop” setting, minimizing the need for multiple vehicle trips to various commercial areas around the community. Although some single use highway-oriented commercial activities will continue to occur in some areas, this pattern of development is generally not encouraged.

CC 2: Location

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

CC 3: Size

Typically require a site of between 10 and 30 acres.

CC 4: Unified Site Design

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

CC 5: Architectural Character

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

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

CC 6: Organization of Uses

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

CC 7: Parking Design and Layout

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

CC 8: Circulation and Access

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

While part of Lot 2 is in the 100 Year Flood Plain and Future 1% Conditions Annual Chance Floodplain, no part of Lot 2 is in the Floodway, an area set aside as an Environmentally Sensitive Area. The Comprehensive Plan does not indicate any portion of the site is in an Environmentally Sensitive Area.

Lot 2 was part of the original entire rezoning site and found to conform to the Comprehensive Plan and policies of the City in effect in 2002. The proposed amendment of Lot 2 conforms with the current Comprehensive Plan effective April 2003.

8. ZONING HISTORY AND LENGTH OF TIME VACANT AS ZONED: Lot 2 has remained vacant since approval of the PUD and filing of the Final Plat in 2002.

February 20, 1968	Annexation.
1968-1969	E, Light Industrial District.
1969-2002	R District (unplatted portion of the site).
1978-2002	C-5 District (platted portion of the site).

Attachment No. 4

- December 6, 1982 Preliminary Plat approved by Manhattan Urban Area Planning Board.
- June 6, 1983 Final Plat of Johns No. 1 Addition, Lots 1-8, approved by Manhattan Urban Area Planning Board.
- March 4, 2002 Manhattan Urban Area Planning Board conducts a public hearing to consider the rezoning for a Home Depot from C-5, Highway Service Commercial District, and R, Single-Family Residential District, to Commercial Planned Unit Development. The Board tables the public hearing to the April 1, 2002, Planning Board meeting for architectural changes to the building.
- April 1, 2002 Manhattan Urban Area Planning Board conducts a public hearing and recommends approval of the rezoning 6-0.
- April 16, 2002 City Commission approves first reading of an ordinance rezoning the 20.4 tract of land to PUD, Commercial Planned Unit Development for a Home Depot.
- May 7, 2002 City Commission approves Ordinance No. 6263, rezoning the 20.4 tract of land to PUD, Commercial Planned Unit Development for a Home Depot.
- May 20, 2002 Manhattan Urban Area Planning Board approves Final Development Plan & Final Plat Manhattan Plaza.
- May 21, 2002 City Commission accepts easements and rights-of-way as shown on the Final Plat of Manhattan Plaza.

9. CONSISTENCY WITH INTENT AND PURPOSE OF THE ZONING ORDINANCE:

The Manhattan Zoning Regulations are intended to divide the City into zones and districts; to regulate the use of land within those districts; restrict the use of buildings and land to agriculture, dwelling, business, industry, and other purposes; to promote the health, safety, morals, comfort and general welfare; to serve and protect property values throughout the City; and, establish land use regulations, control density, conserve natural resources, and the use of land within flood plains. The proposed amendment is generally consistent with the intent and purpose of the Manhattan Zoning Regulations and approved PUD.

Attachment No. 4

The PUD will provide for a convenient commercial location along a major highway, consistent with the Comprehensive Plan. The site will provide shopping facilities accessed from a major street. The PUD is generally consistent with the Purpose and Objectives of the PUD Regulations.

Flood Plain Development permits and building permit are required prior to issuance of a building permit for construction. The volume and height of fill to elevate the building will likely require approval by the Kansas Division of Water Resources.

10. RELATIVE GAIN TO THE PUBLIC HEALTH, SAFETY AND WELFARE THAT

DENIAL OF THE REQUEST WOULD ACCOMPLISH, COMPARED WITH THE HARDSHIP IMPOSED UPON THE INDIVIDUAL OWNER: There appears to be no relative gain to the public health, safety and welfare that denial of the request would accomplish. The applicant and owner have invested significant time in preparing the amendment to meet the needs of the City's policies. The applicant has submitted drainage and traffic analysis, which show minimal impact on Wildcat Creek flood plain and traffic generation. Therefore, it may be a hardship upon the owner, if the amendment is denied.

11. ADEQUACY OF PUBLIC FACILITIES AND SERVICES: Adequate public utilities and facilities are available to serve Lot 2.

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

13. STAFF COMMENTS AND RECOMMENDATION:

City Administration recommends approval of the amendment and the Final Development Plan of Lot 2, Manhattan Plaza Commercial Planned Unit Development for a proposed PetSmart store, with the following conditions:

1. Landscaping and irrigation shall be provided pursuant to a Landscaping Performance Agreement between the City and the owner, which shall be entered into prior to issuance of a building permit.
2. All landscaping and irrigation shall be maintained in good condition.
3. Signs shall be provided as proposed in the application documents, and Exempt signs to allow to those types of signs described in Article VI, Section 6-104 (A)(1),(2),(4),(5), and (7); and, Section 6-104 (B)(2) and B(5).

ALTERNATIVES:

1. Recommend approval of the proposed amendment and the Final Development Plan of Lot 2, Manhattan Plaza Commercial Planned Unit Development, stating the basis for such recommendation, with the conditions listed in the Staff Report.
2. Recommend approval of the proposed amendment of amendment and the Final Development Plan of Lot 2, Manhattan Plaza Commercial Planned Unit Development, and modify the conditions, and any other portions of the proposed PUD, to meet the needs of the community as perceived by the Manhattan Urban Area Planning Board, stating the basis for such recommendation, and indicating the conditions of approval.
3. Recommend denial of the proposed amendment, stating the specific reasons for denial.
4. Table the proposed amendment to a specific date, for specifically stated reasons.

POSSIBLE MOTION:

The Manhattan Urban Area Planning Board recommends approval of the proposed amendment and the Final Development Plan of Lot 2, Manhattan Plaza Commercial Planned Unit Development, based on the findings in the Staff Report, with the three conditions recommended by City Administration.

PREPARED BY: Steve Zilkie, AICP, Senior Planner

DATE: May 16, 2013

13041

AN AMENDMENT OF THE APPROVED FINAL DEVELOPMENT PLAN OF THE PENNY'S CONCRETE INDUSTRIAL PUD TO ALLOW AN ADVERTISING SIGN (OFF-SITE SIGN)

THE AMENDMENT IS PROPOSED AS A FINAL DEVELOPMENT PLAN.

BACKGROUND

APPLICANT: Thomas Outdoor Advertising Inc. – Bart Thomas.

OWNER: Penny's Concrete, Inc., a Kansas Corporation.

APPLICANT ADDRESS: 1508 Fair Lane, Manhattan, KS 66502.

OWNER ADDRESS: 234000 W. 82nd Street, Shawnee, KS, 66227.

LEGAL DESCRIPTION: Lot 3, Penny's Addition, Unit Two, an Industrial Planned Unit Development, City of Manhattan, Riley County, Kansas.

LOCATION: The amendment site is generally located on that part of Lot 3 approximately 1,400 feet south of the Skyway Drive and Eureka Drive intersection on the west side of Skyway Drive. Lot 3 is a vacant tract of land immediately south of the Penny's Concrete batch plant operation.

The Final Plat of Penny's Addition, Unit Two, Industrial PUD, created Lot 2, on which the concrete operations exist, and Lot 3, a vacant tract of land for expansion of the concrete operation, and on which the Advertising sign is proposed.

EXISTING ZONING: Industrial Planned Unit Development District, with AO, Airport Overlay District.

AREA: Lot 3 is a 3.447 acre (150,156 square foot) tract of land.

DATE OF NEIGHBORHOOD MEETING: March 27, 2013.

PUBLICATION DATE OF PUBLIC NOTICE: Monday, April 15, 2013.

DATE OF PUBLIC HEARING, PLANNING BOARD: Monday, May 6, 2013; Tabled to May 20, 2013

CITY COMMISSION FIRST READING OF AN ORDINANCE: Tuesday, June 4, 2013.

EXISTING PUD:

Ordinance Nos. 6730 and 6915

Penny's Concrete Industrial Planned Unit Development and **Ordinance No. 6730**, dated October 21, 2008, with the following conditions of approval:

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

Penny's Concrete Unit Two Industrial Planned Unit Development and **Ordinance No. 6915**, dated September 6, 2011, with the following condition of approval:

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

Permitted Uses

Permitted Uses in the PUD are set out above in Ordinance No. 6730, under Condition 1.

Signs are permitted under Conditions 6 and 7, Ordinance No. 6730, and Condition 1, Ordinance No. 6915.

EXISTING USE

The existing use of the Penny's Concrete PUD is exclusively on Lot 2, which adjoins vacant Lot 3, the amendment site. Lot 2 consists of a permanent Concrete Batch Plant, a portable Concrete Batch Plant, the production and storage of concrete landscaping blocks for retaining walls, office, other accessory uses such as landscaping, lighting, signage, a future shop, and a retention basin along the east side of Lot 2. A third batch plat is approved on Lot 3 but has not been built. In addition to the Manhattan Zoning Regulations, batch plant activities on Lots 2 and 3 are subject to Kansas Department of Health and Environment (KDHE) air and water quality regulations.

Lot 3 – Approved But Not Constructed Batch Plant.

A portable plant (Plant #3) may be located on Lot 3 and may be placed on the site depending on demand for concrete. The area around Plant #3 will be for aggregate storage and parking with access to the existing activities on proposed Lot 2. *(The approved Final Development Plan drawings for future improvements on Lot 3 are attached. The applicant has requested an extension of approval of the Final Development Plan.)*

DESCRIPTION OF PROPOSED AMENDMENT

AMEND Ordinance No. 6730 and Ordinance No. 6915 and the Final Development Plan of the Penny's Concrete Industrial Planned Unit Development (PUD) Unit Two, for a proposed a Advertising Sign (Off-site sign), commonly called a billboard, which is proposed on the east side of Lot 3 within a drainage easement (a retention basin) to be constructed as a future extension of the retention basin on Lot 2 at the time Lot 3 is developed as a third batch plant.

Advertising signs are defined as a Functional Class of signs in Article VI, Signs. The definition of an advertising sign and the specific standards follow:

Definition

“Advertising Signs (off-site signs). A sign which directs attention to a business, commodity, service or entertainment conducted, sold, or offered at a location other than the premises on which the sign is located or to which it is affixed.”

Regulations

Section 6-107, Specific Standards for Specific Types of Signs.

- (A) Advertising Signs: The following restrictions shall apply to advertising signs.
- (1) They shall be of only the following structural types: ground, pole, or wall.
 - (2) They shall only be allowed in the following districts: C-5, C-6, LM-SC, I-3 and I-4.
 - (3) They shall maintain a 750 foot radial distance from any other advertising sign.
 - (4) They shall be no closer than 200 feet to a residential district.
 - (5) They shall follow the setback requirements as cited in Article VI, Part 2, District Regulations. In addition, the following requirements shall apply: Advertising sign structures shall be set back a minimum of twenty-five (25) feet from any front or rear property line.
 - (6) The area per face of advertising signs shall not exceed 260 square feet in gross area.
 - (7) Double faced advertising signs having nonparallel faces shall be constructed so that the angle between the faces on a sign shall not exceed twenty-four (24) degrees and the total distance between the open ends of the faces shall not exceed ten (10) feet.
 - (8) No part of an advertising sign shall extend more than thirty (30) feet above the ground.
 - (9) Advertising signs that are pole signs shall be constructed using a unipole method.
 - (10) Lighting for advertising signs shall be constructed so that illumination is directed upward.

Riley County Advertising Sign Regulations

Recently adopted Riley County Advertising sign regulations for an Advertising Sign (a.k.a “Billboard”) are attached for reference and comparison.

PROPOSED SIGN: The two sided Advertising sign face is 260 square feet in area per face (26 feet in length by 10 feet in height), total sign height is 30 feet in height (20 foot, 24 inch diameter steel pole and 10 feet of sign face) measured from the flat grade adjacent to the retention basin (*elevation attached*). The depth of the pole will have to be sufficient to insure that when the retention basin is graded, that the height of the sign or its location is consistent with the approved location on the slope of the basin. The front yard setback is 25 feet and the closest part of the sign is generally 23 feet.

LIGHTING: The proposed Advertising sign will be illuminated with lighting directed upwards consistent with Section 6-107 (10) above.

MATTERS TO BE CONSIDERED WHEN AMENDING A PLANNED UNIT DEVELOPMENT

1. WHETHER THE PROPOSED AMENDMENT IS CONSISTENT WITH THE INTENT AND PURPOSE OF THE APPROVED PUD, AND WILL PROMOTE THE EFFICIENT DEVELOPMENT AND PRESERVATION OF THE ENTIRE PUD:

The proposed amendment is generally consistent with the intent and purpose of the Penny’s Concrete Industrial PUD, which is a heavy industrial land use as well as the eastern part of the Eureka Addition, which also is a light industrial and heavy commercial area. Advertising sign is a permitted sign in I-4, Heavy Industrial District; C-6, Heavy Commercial District; and, I-3, Light Industrial District. Approval of the proposed amendment does not necessarily ensure the efficient development and preservation of the entire PUD but does not interfere with its efficient development as a batch plant and does not interfere with the use of the retention basin. The unipole of the Advertising sign may be located on the slope of the retention basin but must remain out of the platted utility easement east of the retention basin. The property owner supports the amendment.

2. WHETHER THE PROPOSED AMENDMENT IS MADE NECESSARY BECAUSE OF CHANGED OR CHANGING CONDITIONS IN OR AROUND THE PUD, AND THE NATURE OF SUCH CONDITIONS:

The proposed amendment is necessary due to loss of billboard signage as explained by the applicant. Prior to rezoning to PUD, the previous C-6 District would have allowed the billboard. The applicant indicates in his written documents that, “The reason for this is not expansion of more signs, but replacement. We had to remove (29) billboards due to road changes. With the removal of these signs, (52) facings representing local clients are gone. They were left

without the ability to advertise their business or products. We realize with current laws there will only be the opportunity to build back 1-3 signs. Our company's position is to adhere to the new statutes as we were a part of the language in these new rules. I.e. Spacing, heights, and size. Again this will meet the state, federal, county & city regulations". There are five, double stacked county billboards, four sign faces per pole, or 20 total signs faces along the former K-18 Highway to the northeast of Lot 3, and approximately, at their closest, 2,500 feet northeast near a car wash, and approximately 4,500 feet further east along the former highway.

3. WHETHER THE PROPOSED AMENDMENT WILL RESULT IN A RELATIVE GAIN TO THE PUBLIC HEALTH, SAFETY, CONVENIENCE OR GENERAL WELFARE, AND IS NOT GRANTED SOLELY TO CONFER A SPECIAL BENEFIT UPON ANY PERSON: Approval of the proposed amendment will result in a relative gain to the general public by allowing convenient visual access to signage advertising businesses with off-site commercial messages. The proposed amendment will be granted as a special benefit to the applicant but is intended to replace Advertising sign copy area lost due to highway changes along K-18 Highway.

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

1. LANDSCAPING: No landscaping is proposed with the Advertising sign, which will be located on the grass lined slope of a future retention basin.

2. SCREENING: Undeveloped Lot 3 will, when developed, be screened by a six foot slatted security fence on the east lot line with a row of ornamental trees on the inside the fence, which will be pruned to allow conveyance of flood waters.

3. DRAINAGE: A drainage study was submitted in 2006 with the Preliminary Plat for the entire Eureka Addition subdivision. The study was reviewed and accepted by the City Engineer.

An update to the original study was submitted and accepted with the Penny's PUD in 2008. As a part of the proposed amendment and rezoning, Karen L. Weathers, P.E., BG Consultants, submitted a Storm Drainage Report for Penny's Concrete Lot 36, dated June 15, 2011. The 2011 update was reviewed and accepted by the City Engineer.

Storm water will drain to a future grass lined retention pond on the east side of Lot 3, which will be an extension of an existing basin to the north on Lot 2. The retention pond is designed to hold the 100 year storm from the expanded concrete surface of the PUD. If needed a storm water small pump will pump retained water into the City's storm water system, consisting of curb and gutter and storm water pipes and inlets, located near the northwest corner of the site.

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Part of the proposed PUD is in the regulated and buildable portion of the 100 Year Flood Plain, and the remainder is in the 500 Year Flood Plain, which is not regulated. The proposed Flood Plain map maintains the site, where the Advertising sign will be located, as 100 Year Flood Plain. The area may be removed entirely from the 100 Year Flood Plain at a later date. HNTB, as consultant for KDOT, submitted a Conditional Letter of Map Revision related to improvements associated with the realignment of K-18 Highway. The as-built conditions may remove the 100 Year Flood Plain from Lot 3, at some future date, either by Letter of Map Revision or updated flood plain maps.

Shane Swope, P.E., Stormwater Engineer, Manhattan Public Works Department, has reviewed and accepted the proposed location of the Advertising sign.

4. CIRCULATION: There is no change to access to the PUD associated with the proposed Advertising sign. The location will need to be accessed from Eureka Terrace. There can be no curb cut on Skyway Drive, until one is approved by the Kansas Department of Transportation.

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

6. CHARACTER OF THE NEIGHBORHOOD: The character of the neighborhood in the Eureka and Penny's subdivisions is characterized by the batch plant and a developing light industrial/industrial park consisting of Star Lumber & Supply, a contractor's business, a self-storage site and auto related service. The neighborhood further north is Eureka Drive, Flint Hills Job Corps Center and agricultural fields. The neighborhood to the immediate south and west of the amendment site is undeveloped heavy commercial and industrial park lots and agricultural fields. To the southwest is the Manhattan Regional Airport. Residential neighborhoods are to the west of the Eureka Addition. The neighborhood to the east is the realigned K-18 Highway Corridor and Skyway Drive.

THIRTEEN MATTERS TO BE CONSIDERED WHEN REZONING

1. EXISTING USE: Lot 3 is a vacant tract of land approved for expansion of the Penny's Concrete batch plant operations.

2. PHYSICAL AND ENVIRONMENTAL CHARACTERISTICS: Lot 3 is flat and covered with field grasses, and within the 100 Year and 500 Year Flood Plains.

Lot 3 is entirely within the Horizontal and Conical Zones of Manhattan's Regional Airport. The northwest corner of Lot 3 is also within the Approach and Transitional Zones of the airport. Future uses (structures and trees), which are within these Zones may be required to obtain, and be granted, an Airport Compatible Use Permit prior to

construction, planting or change to the structure or trees approved on Lot 3, see below under **CONSISTENCY WITH INTENT AND PURPOSE OF THE ZONING ORDINANCE** for further information concerning the AO District.

3. SURROUNDING LAND USE AND ZONING:

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

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

(c.) EAST: Skyway Drive and K-18 Highway; Riley County G-1 District.

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

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

5. SUITABILITY OF SITE FOR USES UNDER CURRENT ZONING: Lot 3 is suitable for the batch plant as approved.

6. COMPATIBILITY OF PROPOSED DISTRICT WITH NEARBY PROPERTIES AND EXTENT TO WHICH IT MAY HAVE DETRIMENTAL AFFECTS: Properties nearby Lot 3 are the existing Penny's batch plant site, and a lumber wholesale supply and recently constructed Skyway Drive and undeveloped agricultural fields. Nearby properties to the south are undeveloped parts of the Eureka Addition, agricultural fields and the Manhattan Regional Airport.

The Advertising sign will be setback approximately 23 feet from the east lot line of Lot 3 and will be no closer than 23 feet to the east lot line.

Lot 3 is entirely within the Horizontal and Conical Zones of Manhattan's Regional Airport, which requires structures comply with the AO, Airport Overlay District regulations. The northwest corner of the site is also within the Approach and Transitional Zones of the airport. Future uses (structures and trees), which are within these Zones may be required to obtain, and be granted, an Airport Compatible Use Permit prior to construction, planting or change to the structure or tree (see below under consistency with intent and purpose of the Zoning Ordinance for further information concerning the AO District).

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The proposed maximum structure height is 30 feet to the top of the sign. (*Note: The Federal Aviation Agency (FAA) previously determined there would be no hazard to air navigation, based on a height of 100 feet for the Concrete Batch Plant in the existing Penny's PUD. The FAA's determination indicated future construction requires additional notice to the FAA. The addition of Plant #3 requires additional notice to the FAA before Plant #3 is added to the site but does not include the Advertising sign outside the approach zone, which is less than 75 feet in height.*)

7. CONFORMANCE WITH COMPREHENSIVE PLAN: THE SOUTHWEST PLANNING AREA OF THE FUTURE LAND USE MAP OF THE MANHATTAN URBAN AREA COMPREHENSIVE PLAN DESIGNATES THE MAJORITY OF THE PROPOSED EUREKA ADDITION AS INDUSTRIAL (IND). PENNY'S CONCRETE PUD WAS FOUND IN CONFORMANCE WITH THE COMPREHENSIVE PLAN WITH REZONING TO INDUSTRIAL PUD AND THE AMENDMENT FOR LOT 3. THE PROPOSED ADVERTISING SIGN IS IN GENERAL CONFORMANCE WITH THE COMPREHENSIVE PLAN.

The proposed Eureka Valley – Highway K-18 Corridor Plan, notes under Aesthetics, Objective B, that standards for outdoor advertising regarding size, setbacks, spacing, stacking, lighting and digital billboards should be established to insure coordination between local jurisdiction in Eureka Valley that design standards for signage (*pages 35-36 attached*). Riley County recently adopted outdoor advertising sign standards and the City of Manhattan is currently working on an update of the City's sign regulations, including Advertising signs.

8. ZONING HISTORY AND LENGTH OF TIME VACANT AS ZONED: The amendment site has remained vacant to date.

February 6, 2006: Manhattan Urban Area Planning Board considers annexation of the 53-acre site and conducts the public hearings on the proposed rezoning of three tracts of land from County G-1, General Agricultural District, and N-1, Airport Noise Hazard District, to I-2, Industrial Park District; C-6, Heavy Commercial District; and I-3, Light Industrial District, all with AO, Airport Overlay District. The Planning Board recommends approval of the annexation on a vote of 5-1; and recommended approval of the rezoning of three tracts of land on a vote of 5-1. The Board tabled the preliminary plat to the February 23, 2006, Planning Board meeting, on a vote of 6-0.

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- February 21, 2006 City Commission, on a vote of 5-0, approves Resolution No 022106-A, requesting that the Board of Riley County Commissioners make positive findings regarding the island annexation of the proposed Eureka Addition.
- February 23, 2006 Manhattan Urban Area Planning Board approves Preliminary Plat 6-0, with three conditions.
- March 16, 2006 Board of Riley County Commissioners considers island annexation request, as per K.S.A. 12-520c and tables for additional information.
- March 30, 2006 Board of Riley County Commissioners continues consideration of island annexation request, as per K.S.A. 12-520c, and approves Resolution No. 03006-13, finding that the annexation will not hinder development or prevent proper growth.
- April 18, 2006 City Commission approves first reading of ordinances annexing and rezoning the proposed Eureka Addition.
- May 2, 2006 City Commission approves Ordinance Nos. 6537 and 6538 annexing and rezoning the proposed Eureka Addition.
- August 7, 2006 Manhattan Urban Area Planning Board approves Final Plat Eureka Addition.
- September 5, 2006 City Commission accepts easements and rights-of-way as shown on the Final Plat Eureka Addition.
- September 15, 2008 Manhattan Urban Area Planning Board recommends, on a vote of (5-1) rezoning Lots 12 – 15, Eureka Addition from C-6, Heavy Commercial District with AO, Airport Overlay District, to PUD, Industrial Planned Unit Development District with AO, Airport Overlay District.
- October 14, 2008 City Commission approves first reading of an ordinance rezoning Lots 12 – 15, Eureka Addition, to PUD, Industrial Planned Unit Development District with AO, Airport Overlay District.
- October 21, 2008 City Commission approves Ordinance No. 6730 rezoning Lots 12 – 15, Eureka Addition, to PUD, Industrial Planned Unit Development District with AO, Airport Overlay District.

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- November 3, 2008 Manhattan Urban Area Planning Board approves Final Plat of the Penny's Addition and the Final Development Plan of Penny's Concrete Industrial PUD.
- November 18, 2008 City Commission accepts easements and rights-of-way as shown on the Final Plat of Penny's Addition.
- August 1, 2011 Manhattan Urban Area Planning Board recommends approval of an amendment of the Final Development Plan and Ordinance No. 6730, and the rezoning of Lot 36, Eureka Addition, Unit Two, from C-6/AO to PUD/AO, to be combined with Penny's Concrete PUD, and approves the Final Plat of Penny's Addition, Unit Two.
- August 16, 2011 City Commission approves first readings of an amendment of the Final Development Plan and Ordinance No. 6730, to be known as Penny's Concrete PUD, Unit Two; and the rezoning of Lot 36, Eureka Addition, Unit Two, from C-6/AO to PUD/AO, to be combined with Penny's Concrete Unit Two PUD.
- September 6, 2011 City Commission approves Ordinance No. No. 6915 amending the Final Development Plan of Penny's Concrete Industrial PUD and Ordinance No. 6730; and rezoning Lot 36, Eureka Addition, Unit Two, to PUD, Industrial Planned Unit Development District with AO, Airport Overlay District.
- September 6, 2011 City Commission accepts the easements and rights-of-way as shown on the Final Plat of Penny's Addition, Unit Two; and authorizes Mayor and City Clerk to execute Agreement regarding construction and maintenance of the storm water facilities.

9. CONSISTENCY WITH INTENT AND PURPOSE OF THE ZONING ORDINANCE:

The intent and purpose of the Zoning Regulations is to protect the public health, safety, and general welfare; regulate the use of land and buildings within zoning districts to assure compatibility; and to protect property values.

Lot 3 is designated for a heavy industrial use. Advertising signs are permitted in heavy industrial zones. The site was zoned C-6 prior to rezoning to PUD. Advertising signs are permitted in C-6 District. The proposed Advertising sign would not be out of character in the neighborhood and conforms to the Manhattan Zoning Regulations' requirements for Advertising signs set out above under description of proposed amendment, Section 6-107, Specific Standards for Specific Types of Signs.

City of Manhattan and Kansas Department of Transportation sign permits are required, as well as a City Flood Plain Development Permit.

10. RELATIVE GAIN TO THE PUBLIC HEALTH, SAFETY AND WELFARE THAT DENIAL OF THE REQUEST WOULD ACCOMPLISH, COMPARED WITH THE HARDSHIP IMPOSED UPON THE APPLICANT: There appears to be no relative gain to the public that denial would accomplish compared to the hardship to the owner because Lot 3 is generally consistent with I-4 District use and an Advertising sign would be allowed in the I-4 District, as well as the previous C-6 District zone of Lot 3. The proposed structure will not interfere with the use of the retention basin. The Advertising sign must remain outside of the dedicated utility easement to the east of the sign's location.

No adverse impact by the proposed structure is expected that would adversely affect safe and efficient use of navigable airspace by aircraft.

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

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

13. STAFF COMMENTS: City Administration recommends approval of the proposed amendment of Ordinance No. 6730 and Ordinance No. 6915 and the amended Final Development Plan of the Penny's Concrete Industrial PUD Unit Two, for an Advertising sign subject to the following conditions:

1. One (1) Advertising sign, shall be allowed on the east side of Lot 3, Penny's Addition, Unit Two, an Industrial Planned Unit Development, City of Manhattan, Riley County, Kansas.
2. All applicable permits shall be obtained before construction of the Advertising sign.
3. No portion of the Advertising sign shall encroach on or over the utility easement dedicated on the east side of Lot 3.

ALTERNATIVES:

1. Recommend approval of the proposed amendment of Ordinance No. 6730 and Ordinance No. 6915 and the amended Final Development Plan of the Penny's Concrete Industrial PUD Unit Two, stating the basis for such recommendation.
2. Recommend denial of the proposed amendment of Ordinance No. 6730 and Ordinance No. 6915 and the amended Final Development Plan of the Penny's Concrete Industrial PUD Unit Two, stating the specific reasons for denial.

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3. Table the proposed Amendment to a specific date, for specifically stated reasons.

POSSIBLE MOTION:

The Manhattan Urban Area Planning Board recommends approval of the proposed amendment of Ordinance No. 6730 and Ordinance No. 6915 and the amended Final Development Plan of the Penny's Concrete Industrial PUD, Unit Two, based on the findings in the Staff Report, subject to the three conditions of approval recommended by City Administration.

PREPARED BY: Steve Zilkie, AICP, Senior Planner

DATE: May 15, 2013
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