

MINUTES
CITY COMMISSION MEETING
TUESDAY, JUNE 18, 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, 9 staff, and approximately 20 interested citizens.

PLEDGE OF ALLEGIANCE

Mayor Matta led the Commission in the Pledge of Allegiance.

COMMISSIONER COMMENTS

Commissioner Jankovich provided an overview of items discussed at the Manhattan Area Chamber of Commerce Board of Directors Meeting on June 18, 2013. He also highlighted the groundbreaking ceremony held on Friday, June 14, 2013, for the new Department of Agriculture building to be constructed near the Kansas State University Innovation Center, which will bring new jobs and additional people to Manhattan.

Commissioner McCulloh reminded citizens that Thursday, June 20, 2013, is “Dump the Pump Day” and encouraged people to walk to work instead of driving and to support aTa Bus and public transportation.

CONSENT AGENDA

(* denotes those items discussed)

MINUTES

The Commission approved the minutes of the Regular City Commission Meeting held Tuesday, June 4, 2013.

CLAIMS REGISTER NO. 2734

The Commission approved Claims Register No. 2734 authorizing and approving the payment of claims from May 29, 2013, to June 11, 2013, in the amount of \$3,813,984.81.

CONSENT AGENDA (CONTINUED)

LICENSE

The Commission approved a Fireworks Display License for July 3, 2013, for the Manhattan Country Club, 1531 North 10th Street, and a Fireworks Display License for July 4, 2013, for Aerial FX, CiCo Park.

FINAL PLAT – MANHATTAN MARKETPLACE SHOPS, UNIT FIVE, PLANNED UNIT DEVELOPMENT

The Commission accepted the easements and rights-of-way, as shown on the Final Plat of Manhattan Marketplace Shops, Unit Five, Planned Unit Development, generally located northeast of the intersection of Leavenworth Street and N. 3rd Street.

ORDINANCE NO. 7008 – AMEND FINAL DEVELOPMENT PLAN – LOT 3, PENNY’S CONCRETE INDUSTRIAL PUD, UNIT TWO

The Commission approved Ordinance No. 7008 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. 1*), with the three conditions of approval recommend by Manhattan Urban Area Planning Board.

* **ORDINANCE NO. 7009 – AMEND FINAL DEVELOPMENT PLAN – LOT 2, MANHATTAN PLAZA COMMERCIAL PLANNED UNIT DEVELOPMENT**

The Commission approved Ordinance No. 7009 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. 2*), with the four conditions of approval.

RESOLUTION NO. 061813-A – ADOPT – COST-SHARE POLICY – WATER IMPROVEMENTS

The Commission approved Resolution No. 061813-A adopting a cost-sharing policy for public improvements to the Water infrastructure.

RESOLUTION NO. 061813-B – ADOPT – COST-SHARE POLICY – SANITARY SEWER IMPROVEMENTS

The Commission approved Resolution Nos. 061813-B adopting a cost-sharing policy for public improvements to the Sewer infrastructure.

CONSENT AGENDA (CONTINUED)

RESOLUTION NO. 061813-C – ADOPT – COST-SHARE POLICY – STREET IMPROVEMENTS

The Commission approved Resolution No. 061813-C adopting a cost-sharing policy for public improvements to the Street infrastructure.

RESOLUTION NO. 061813-D – ADOPT – COST-SHARE POLICY – VEHICULAR BRIDGES IMPROVEMENTS

The Commission approved Resolution No. 061813-D adopting a cost-sharing policy for public improvements to the Vehicular Bridges infrastructure.

RESOLUTION NO. 061813-E – ADOPT – COST-SHARE POLICY – MULTI-PURPOSE TRAIL IMPROVEMENTS

The Commission approved Resolution No. 061813-E adopting a cost-sharing policy for public improvements to the Multi-purpose Trail infrastructure.

RESOLUTION NO. 061813-F – ADOPT - COST-SHARE POLICY – STORMWATER IMPROVEMENTS

The Commission approved Resolution No. 061813-F adopting a cost-sharing policy for public improvements to the Stormwater infrastructure.

* **RESOLUTION NO. 061813-G – PETITION – CONGRESSIONAL ADDITION – SANITARY SEWER IMPROVEMENTS (SS1309)**

The Commission found the petition sufficient and approved Resolution No. 061813-G, finding the project advisable and authorizing construction for the Congressional Addition Sanitary Sewer Improvements (SS1309).

* **RESOLUTION NO. 061813-H – PETITION – CONGRESSIONAL ADDITION – STREET IMPROVEMENTS (ST1311)**

The Commission found the petition sufficient and approved Resolution No. 061813-H, finding the project advisable and authorizing construction for the Congressional Addition Street Improvements (ST1311).

* **RESOLUTION NO. 061813-I – PETITION – CONGRESSIONAL ADDITION – WATER IMPROVEMENTS (WA1310)**

The Commission found the petition sufficient and approved Resolution No. 061813-I, finding the project advisable and authorizing construction for the Congressional Addition Water Improvements (WA1310).

CONSENT AGENDA (CONTINUED)

AGREEMENT – ENGINEERING SERVICES – CONGRESSIONAL ADDITION IMPROVEMENTS (SS1309, ST1311, WA1310)

The Commission authorized the Mayor and City Clerk to execute an agreement with SMH Consultants, P.A., of Manhattan, Kansas to perform professional services for Congressional Addition Sanitary Sewer (SS1309), Street (ST1311), and Water (WA1310) Improvements.

SET PUBLIC HEARING DATE – LEVY SPECIAL ASSESSMENTS (GOB 2013-A)

The Commission set July 2, 2013, as the date to hold a public hearing levying special assessments against the benefiting properties of the following four (4) projects, which have been completed: *Manhattan Mennonite Church - Sanitary Sewer (SS0909); McCall Road Expansion - Street (ST0821); Shuss Road - Street (ST1111); and Claflin Road and Seth Child Road (Beechwood Terrace) Intersection Improvements - Street (ST1015).*

NEGOTIATE CONTRACT – WATER AND SANITARY SEWER SYSTEMS IMPROVEMENTS (WA1308, CIP #WA084P) (WA1309) (SS1307, CIP #WW097P) (SS1308, CIP #WW096P)

The Commission accepted the recommendation of the Selection Committee and authorized City Administration to negotiate a contract with BG Consultants, Inc., of Manhattan, Kansas, for the Water Systems and Sanitary Sewer Improvements Projects [*Westwood Road, Elm Lane, Summit Avenue, and Walnut Drive Water Line Replacement (WA1308); Fourth Street and Pottawatomie Avenue Water Line Replacement (WA1309); 900 block of old Claflin Sanitary Sewer Replacement (SS1307); and Wildcat Ridge Sanitary Sewer Replacement (SS1308).*].

AWARD CONTRACT – UTILITIES OPERATION FACILITY SITE IMPROVEMENTS (SP1209)

The Commission accepted the Engineer's Opinion of Probable Cost in the amount of \$360,300.00; awarded a construction contract in the amount of \$184,681.90 to R.M. Baril, General Contractor, Inc.; and authorized the Mayor and City Clerk to execute a contract with R.M. Baril, General Contractor, Inc., of Manhattan, Kansas, for the Water and Wastewater Maintenance Facility Site Improvement Project (SP1209).

CONSENT AGENDA (CONTINUED)

AWARD CONTRACT – LEE MILL HEIGHTS, UNIT EIGHT, PHASE I, IMPROVEMENTS (WA1306, SS1306, ST1307)

The Commission accepted the Engineer's Opinion of Probable Cost in the amount of \$217,339.50; awarded a construction contract to Larson Construction, of Manhattan, Kansas; and authorized the Mayor and City Clerk to execute a contract in the amount of \$198,871.30 with Larson Construction for the Lee Mill Heights, Unit Eight, Phase I, Water (WA1306), Sanitary Sewer (SS1306), and Street (ST1307) improvement project.

AWARD CONTRACT – TECUMSEH/QUIVERA, PHASE IIA, STORMWATER IMPROVEMENTS (SM1302)

The Commission accepted the Engineer's Opinion of Probable Cost in the amount of \$345,200.00; awarded a construction contract to Middlecreek Corporation Inc., of Peabody Kansas; authorized the Mayor and City Clerk to execute the contract in the amount of \$289,370.50 with Middlecreek Corporation Inc; and approved first reading of a bond ordinance, amending and supplementing Ordinance No. 6948 for the Tecumseh/Quivera, Phase IIA, Stormwater Improvements Project (SM1302).

REJECT BID – 2012 WATER SYSTEM IMPROVEMENTS (WA1202)

The Commission accepted the Engineer's Opinion of Probable Cost in the amount of \$516,281.00 and rejected the bid received from Middlecreek Corporation, of Peabody, Kansas, in the amount of \$689,011 for the 2012 Water System Improvement Projects (WA1202).

RENEWAL – MICROSOFT VOLUME LICENSING AND SOFTWARE ASSURANCE SERVICES

The Commission authorized the City of Manhattan to renew the agreement for a term of July 1, 2013, to June 30, 2016, in the amount of \$34,792.00 with Software House International, of Austin, Texas, for Microsoft Volume Licensing and Software Assurance services.

RENEWAL – SUNGARD SOFTWARE UPGRADE, MAINTENANCE, AND SUPPORT SERVICES

The Commission authorized the City of Manhattan to renew the software upgrade, maintenance, and support services agreement for a term of July 1, 2013, to June 30, 2014, with SunGard Public Sector, Inc., of Lake Mary, Florida, in the amount of \$70,950.94, with \$54,190.30 to be paid from General Services within the General Fund and \$16,760.64 to be paid from the Water and Sewer Funds.

CONSENT AGENDA (CONTINUED)

PURCHASE – INTELLIGENT TRANSPORTATION SYSTEM (ITS) EQUIPMENT – WEST ANDERSON AVENUE/WEST CLAFLIN ROAD TRAFFIC SIGNAL COORDINATION PROJECT (ST1201)

The Commission authorized the purchase of the Siemens TACTICS software and the wireless telecommunications and ITS equipment for the West Anderson Avenue/West Claflin Road Traffic Signal Coordination Project (ST1201) from Gades Sales Company, Inc., of Wichita, Kansas, in the amount of \$80,825.00, and Electronic Technology, Inc., of Merriam, Kansas, in the amount of \$12,800.00, to be paid from the Special Street and Highway Fund, and KDOT ITS Set-Aside Grant from which City Administration will pursue appropriate reimbursements per the City-State agreement.

APPLICATION – INTELLIGENT TRANSPORTATION SYSTEM (ITS) – K-18 ITS CORRIDOR, PHASE ONE

The Commission authorized the City Administration to complete the necessary application forms for an ITS Grant estimated at \$285,220.00 for Phase One of the K-18 ITS Corridor Project (17th Street to the Law Enforcement Center) and submit all necessary application documents to KDOT.

APPLICATION – 2013 EMERGENCY SOLUTIONS GRANT

The Commission authorized the Mayor and City Clerk to sign an application for 2013 Emergency Solutions Grant funds for approximately \$109,000.00.

BOARD APPOINTMENTS

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

Airport Advisory Board

Appointment of Bob Reader, 6560 North 52nd Street, to a three-year At-large term. Mr. Reader's term will begin June 27, 2013, and will expire June 26, 2016.

Re-appointment of Karen Rogers, 2028 Arthur Drive, to a three-year At-large term. Ms. Roger's term will begin June 27, 2013, and will expire June 26, 2016.

Code Appeals Board

Re-appointment of Ron Hageman, 3450 Vanesta Drive, to a three-year Builder term. Mr. Hageman's term begins immediately, and will expire May 31, 2016.

CONSENT AGENDA (CONTINUED)

BOARD APPOINTMENTS (CONTINUED)

Code Appeals Board (CONTINUED)

Re-appointment of George Lauppe, 2837 Nevada Street, to a three-year Builder term. Mr. Lauppe's term begins immediately, and will expire May 31, 2016.

Re-appointment of Brad Swanson, 2922 Tattarrax Drive, to a three-year Master Mechanic term. Mr. Swanson's term begins immediately, and will expire May 31, 2016.

Housing Authority Board of Commissioners

Appointment of Commissioner Usha Reddi, 1801 Westbank Way, to fill the unexpired Commissioner term of Richard Jankovich. Commissioner Reddi's term begins immediately and will expire March 3, 2017.

After discussion and comments from the Commission, Commissioner Jankovich moved to approve the consent agenda. Commissioner McCulloh seconded the motion. On a roll call vote, motion carried 5-0, with the exception of Item F, ORDINANCE NO. 7009 – AMEND FINAL DEVELOPMENT PLAN – LOT 2, MANHATTAN PLAZA COMMERCIAL PLANNED UNIT DEVELOPMENT, which carried 3-2, with Commissioners Butler and Jankovich voting against the item; and, with the exception of Item T, BOARD APPOINTMENTS, which carried 4-1, with Commissioner Jankovich not in support of the appointment of Bob Reader to the Airport Advisory Board stating that he didn't believe there was a reason for not re-appointing the existing member to the Airport Advisory Board.

GENERAL AGENDA

FIRST READING – AMEND - HERITAGE SQUARE SOUTH COMMERCIAL PUD

Eric Cattell, Assistant Director for Planning, presented an overview of the item. He then responded to questions from the Commission regarding the item and future application for the remaining lots.

GENERAL AGENDA (CONTINUED)

FIRST READING – AMEND - HERITAGE SQUARE SOUTH COMMERCIAL PUD (CONTINUED)

After discussion, Commissioner Jankovich moved to approve first reading of an ordinance amending Ordinance No. 6607 and the approved Preliminary Development Plan of Lots 2, 7, and 8, Heritage Square South Commercial Planned Unit Development, to be known as the Final Development Plan of Lot 2, Heritage Square South Commercial Planned Unit Development, Unit Two, and the Final Development Plan of Lots 7 and 8, Heritage Square South Commercial Planned Unit Development, as proposed, generally located south and east of the intersection of South Port Drive and US-24, based on the findings in the Staff Report (*See Attachment No. 3*). Commissioner Butler seconded the motion. On a roll call vote, motion carried 5-0.

FIRST READING – AMEND FINAL DEVELOPMENT PLAN - LOT 2, TREASURES OF THE HEART MIXED-USE PLANNED UNIT DEVELOPMENT (PUD)

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

Commissioner Jankovich moved to approve first reading of an ordinance amending Lot 2, Treasures of the Heart Mixed-Use Planned Unit Development (PUD) and Ordinance No. 6568, as proposed, generally located at 518 Yuma Street, based on the findings in the Staff Report (*See Attachment No. 4*), with the three conditions of approval recommend by Manhattan Urban Area Planning Board. Commissioner Butler seconded the motion. On a roll call vote, motion carried 5-0.

CONCEAL CARRY AND ADEQUATE SAFETY MEASURES

Bill Raymond, City Attorney, presented background information and an overview of the item. He then responded to questions from the Commission regarding City-owned facilities other than Municipal Court that could be considered.

After discussion and comments from the Commission, Bill Raymond, City Attorney, responded to additional questions from the Commission regarding security measure requirements for City-owned buildings, installation of metal detectors, cost considerations, and personnel training at Municipal Court. He also provided clarification in response to additional questions regarding the exemption process and timeline, adequate security plan requirements, and regulations and language in the new state law.

Tom Rust, 1034 Garden Way, KMAN radio, informed the Commission that he understood this was a mandate; however, he stated that the no weapons stickers do serve a purpose with conceal carry. He responded to comments and provided additional information regarding conceal carry and considerations for weapons in public buildings in case something goes awry.

GENERAL AGENDA (CONTINUED)

CONCEAL CARRY AND ADEQUATE SAFETY MEASURES (CONTINUED)

After further discussion and comments from the Commission, Commissioner Jankovich moved to authorize the Mayor to sign correspondence to the Kansas Attorney General and the Riley County Police Department pursuant to Section 2 (i) of the Senate Substitute for House Bill 2052, exempting the Municipal Court building located at 610 Colorado Street, Manhattan, Kansas, for a period of six (6) months or until January 1, 2014. Commissioner Butler seconded the motion.

Commissioner Reddi requested that City Hall be added and a few other buildings to that.

On a roll call vote, motion carried 4-1, with Commissioner Reddi voting against the motion.

Commissioner McCulloh informed the Commissioners serving on the Riley County Law Board that a couple of Judges at the Riley County Court House have approached her about wanting more police presence at the Court House and at Municipal Court.

ADJOURNMENT

At 7:46 p.m., the Commission adjourned.



Gary S. Fees, MMC, City Clerk

Attachment No. 1

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 plant 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

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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

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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.

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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
13038

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.

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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,

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“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 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

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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).

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- 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.

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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 AN ORDINANCE AND THE APPROVED PRELIMINARY DEVELOPMENT PLAN, PROPOSED AS A FINAL DEVELOPEMNT PLAN.

BACKGROUND

PROPOSED AMNENDMENT: Amend Ordinance No. 6607 and the approved Preliminary Development Plan of Lots 2, 7, and 8, Heritage Square South Commercial Planned Unit Development, to allow for a proposed Aaron's Rental retail store on Lot 2 and a proposed Midway Wholesale business on Lots 7 and 8. Other site improvements include, but are not limited to, signs, landscaping, lighting, and other improvements. The amendment is proposed as a Final Development Plan.

The proposed amendment is required because Condition No. 11, Ordinance No .6607, states, *An amendment(s) of the PUD shall be submitted for review and approval, prior to issuance of any necessary permits for development on Lots 2, 3, 4, 5, 7, 8 and 10.*

APPLICANT: Schultz Construction – Brett Ballou.

OWNER: Heritage Square Land Company, LLC – Tim Schultz Member.

ADDRESS: 1213 Hylton Heights Road, Suite 129, Manhattan, KS 66502.

LEGAL DESCRIPTION: Lots 2, 7 and 8 Heritage Square South PUD a Commercial Planned Unit development, in the City of Manhattan, Pottawatomie County, Kansas.

LOCATION:

- Aaron's Rental retail store: generally located approximately 230 feet east of the intersection of South Port Drive and South Port Drive along the north side of the street.
- Midway Wholesale: generally located south of Tractor Supply Store along the south side of South Port Drive.

AREA:

- Lot 2 – 61,374 square feet (1.41 acres). Lot 2 has proposed to be replatted with the adjacent Lot 3 to create Heritage Square South, Unit Two. The area reflects the proposed lot dimensions. The current lot is 64,867 square feet (1.49 acres)
- Lot 7 & 8 – 136,886 square feet (3.143 acres).

DATE OF NEIGHBORHOOD MEETING: April 16, 2013.

DATE OF PUBLIC NOTICE PUBLICATION: Monday, May 13, 2013.

DATE OF PUBLIC HEARING: PLANNING BOARD: Monday, June 3, 2013.

CITY COMMISSION: Tuesday, June 17, 2013.

EXISTING PUD

Ordinance No. 6607

The Heritage Square South Commercial Planned Unit Development, and Ordinance No. 6607, approved February 6, 2007, is subject to the following conditions of approval:

1. Permitted uses shall include all of the Permitted Uses and Conditional Uses allowed in the C-5, Highway Service Commercial District, except for Adult Businesses and Commercial off-street parking lots as a Principal Use. Additional Permitted Uses include: Antique shops; Apparel stores; Blueprinting, desktop publishing, and photocopying establishments; Book stores; Camera and photographic supply stores; Carpet and rug stores; China and glassware stores; Department stores; Farm and ranch supply stores; Florist shops; Furrier shops; Governmental buildings; Hardware stores; Hobby shops; Motel; Medical clinic; Outdoor seating for restaurants; and Tavern.
2. Landscaping and irrigation shall be provided pursuant to a Landscaping Performance Agreement between the City and the owner, which shall be entered into prior to issuance of a building permit.
3. All landscaping and irrigation shall be maintained in good condition.
4. Light poles shall be provided as described in the application documents. Exterior building lighting shall be provided as proposed and be of a cut-off design, so as to not cast direct light or glare onto streets or adjacent property.
5. Ground Signs shall be permitted and constructed as proposed.
6. Wall signs shall be permitted as proposed.
7. One (1) pole sign shall be permitted per lot on Lots 6, 7, 8 and 10, and no pole signs shall be permitted on Lots 1, 2, 3, 4, 5 and 9. Pole signs shall have a maximum total height of 50 feet above the ground; shall not exceed a maximum total 120 square feet in area; and shall include skirting of the pole. The skirting and the base of pole signs shall include materials and architectural quality similar to those of the associated principal building such as brick, stone and/or stucco; and, pole signs shall include an enhanced landscaped area around the base.
8. Exempt signage shall be permitted as 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.

9. Traffic and drainage improvements to US-24 shall be provided as required by the Kansas Department of Transportation, and the applicant shall submit with the Final Plat either the approved access permit, or a letter from a KDOT representative authorizing the project based on the approved concept.
10. Drainage improvements shall be provided as proposed in the application documents and as per the City Engineer's requirements.
11. An amendment(s) of the PUD shall be submitted for review and approval, prior to issuance of any necessary permits for development on Lots 2, 3, 4, 5, 7, 8 and 10.

Permitted Uses

The Permitted Uses in the PUD are set out above in Condition No. 1.

**PUD AMENDMENT AND PROPOSED IMPROVEMENTS ON
LOT 2 – AARON'S RENTAL CENTER**

Proposed Use and Building: An approximate 80 foot by 100 foot commercial building for an Aaron's rental store is proposed. The 7,970 square feet of interior floor area is divided into the showroom, offices, storage, restrooms and break rooms. The front of the building faces U.S. Highway 24, with the rear of the building facing to the south towards South Port Drive. Deliveries will be received on the south side of the building. The building will be approximately twenty (20) feet tall, with an eight (8) foot tall parapet. Looking at the front façade, the building will appear to be twenty-eight (28) feet tall.

The exterior finish materials will consist of a brick band below the windows, EIFS (exterior insulation and finish system) and metal paneling above the doorway and on the parapet. The building colors will be brown colored brick, tan EFIS and the Aaron's corporate blue metal mansard and parapet.

A screened in trash enclosure is proposed to the south of the building. The proposed screened trash enclosure is described below.

The site is a through lot fronting onto U.S. Highway 24 and South Port Drive. Access is prohibited along U.S. Highway 24. The north property line along the highway is by definition considered a rear lot line. The proposed building will be setback approximately seventy-five (75) feet from this property line. The south property line along South Port Drive is a front lot line, with an approximately sixty (60) foot setback. The building will be setback roughly ninety-five (95) feet from the west property line and eight (80) feet from the east property line.

Attachment No. 3

The site is part of the Heritage Square South, Unit Two Final Plat, which shifts the adjoining property line between the site and Lot 3 (Dollar General) fifteen (15) feet to the east. A thirty (30) foot wide utility easement is platted along the north property line. A ten (10) foot wide utility easement is platted along the east property line and a fifteen (15) foot utility easement is along the south property. The site will abut a twenty-five (25) foot wide utility easement on the adjacent lot.

Proposed Signs: Five (5) signs are proposed on the front façade of the building, with a total of 186 square feet of sign area. The main sign will be centrally located on the parapet and be 144 square feet in area. Four (4) small signs will be on the parapet, two (2) on either side of the main sign. The two (2) smaller sign to the west of the main sign will each be 10.5 square feet in area. The two (2) smaller signs to the east of the main sign will be twelve (12) feet and nine (9) feet.

A ground sign is proposed along the south side of US-24 Highway and set back approximately 30 feet from the north property lot line due to a 30 foot wide utility easement. The sign will be six feet, nine inches tall on a one foot, six inch tall brick base (a total of eight feet, three inches tall) and six feet wide. The brick base will match the building's brick accents.

Proposed Lighting: Exterior lighting will consist of full cutoff, building wall packs on all four (4) sides of the proposed building. No parking lot light poles are proposed for the development.

**PUD AMENDMENT AND PROPOSED IMPROVEMENTS ON
LOTS 7 & 8 – MIDWAY WHOLESALE**

Proposed Use and Building: Midway Wholesale has proposed to develop Lots 7 and 8 to include two buildings and a fenced in materials and equipment storage area. The east building will be approximately 8,000 square feet in floor area with a showroom, business offices and warehouse space. Standard doors and large overhead doors will be located on the west side of the building. A loading dock will be located on the southwest side of the building. The exterior materials of the east building will be grey colored metal siding. A cultured stone band will be present below the windows on the north façade and a portion of the east and west façade towards the front of the building. The building will be approximately twenty-three (23) feet at the peak of the roof.

The west building will have approximately 11,700 square feet of floor area and will be used as warehouse space. The building will have overhead doors on both the east and west side of the structure. A loading dock will be located on the southeast side of the structure. The warehouse's exterior materials will be entirely metal siding. The building will be approximately twenty-three (23) feet at the peak of the roof.

Attachment No. 3

The east building will be approximately thirty-eight (38) feet from the front property line along South Port Drive, sixty-three (63) feet from the east property line, and over 580 feet to the west property line.

The west building will be 120 feet from the front property line along South Port Drive, over 340 feet from the east property line, approximately eighteen (18) feet from the south property line and over 220 feet from the west property line.

The majority of the site will be fenced in creating a secured equipment and materials storage yard. Additional details of the fence are provided below.

Proposed Signs: One wall sign is proposed on the north façade of the showroom building (east building). The area designated for the wall sign is six (6) feet by twenty-four (24) feet, for a total area of 144 square feet. A second wall sign is proposed on the west façade of the showroom building (east building). The sign will be six (6) feet by six (6) feet, for a total area of 36 square feet.

Proposed Lighting: Illumination of the development will consist of exterior lights on the two (2) buildings. Two (2) types of light are proposed. On the north, east and south side of the showroom building, full cut off wall packs are proposed. On the east side of the showroom and east, west and north side of the warehouse will be flood lights. The south side of the warehouse is not proposed to have light fixtures on it.

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

1. WHETHER THE PROPOSED AMENDMENT IS CONSISTENT WITH THE INTENT AND PURPOSE OF THE APPROVED PUD, AND WILL PROMOTE THE EFFICIENT DEVELOPMENT AND PRESERVATION OF THE ENTIRE PUD: The proposed amendment is consistent with the intent and purpose of the approved commercial PUD intended to consist of a broad range of highway service and retail uses. The approved PUD shows a commercial building footprint and parking on Lot 2, 7 and 8, but no other information was provided with the initial rezoning. The proposed amendment will promote the efficient development of the site, and PUD, by allowing construction of a retail use intended to be part of the retail and commercial shopping area.

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 made necessary because Condition No. 11, of Ordinance No. 6607, requires an amendment of the PUD prior to issuance of any permits for development. The PUD has begun developing and the amendment is a result of the increase in demand in the commercial development.

3. WHETHER THE PROPOSED AMENDMENT WILL RESULT IN A RELATIVE GAIN TO THE PUBLIC HEALTH, SAFETY, CONVENIENCE OR GENERAL WELFARE, AND IS NOT GRANTED SOLELY TO CONFER A SPECIAL BENEFIT UPON ANY PERSON: The proposed amendment will result in a gain to the public by allowing development of a vacant lots of land. The amendment is necessary because of a condition of the approval of the PUD and not because the amendment will confer a special benefit to any person.

ADDITIONAL MATTERS TO BE CONSIDERED WHEN AMENDING A PLANNED UNIT DEVELOPMENT

Lot 2, Aaron's Rental

- 1. LANDSCAPING:** The majority of the front, side and rear yards are grass lawn areas. Deciduous trees are to be located along the side yards. Foundation planting beds and parking lot islands are proposed with decorative bushes and perennial ornamental grasses. The proposed landscape will be watered by an underground irrigation system.
- 2. SCREENING:** A six (6) foot tall split-faced cinder block wall is proposed to enclosed the trash dumpster. The wall will also include a double set of swinging gates to fully enclose the area.

No other screening is proposed on the site.

- 3. DRAINAGE:** The majority of the stormwater runoff will sheet flow to the north towards an open ditch along U.S. Highway 24. Runoff from the proposed building and off-street parking lot will be directed to a concrete flume, which will then deposit the stormwater into the adjacent ditch. The southernmost portion of the site will sheet flow to South Port Drive, where it will be collected in the street gutter and storm sewer system.

Attachment No. 3

- 4. CIRCULATION:** The existing street system provides an internal circulation plan which is safe, convenient and efficient for movement of goods, motorists, and pedestrians. Conflicts between motorists and pedestrians are minimized.

Public Access. Pedestrians will be accommodated by sidewalks that will be constructed throughout the development located along one side of streets, as the development builds out.

As a part of Lot 2 development, public sidewalk will be constructed in the South Port Drive right-of-way to the south of Lot 2, with a pedestrian connection from the public sidewalk to an internal pedestrian sidewalk on the south and west side of the building, which leads to the front door.

Traffic. In 2006, a Traffic Report was submitted and accepted by the City Engineer. Access to the development is from U.S.-24 Highway onto a main entry drive to the internal streets of the development, which connect to the east and west of the PUD. Major highway improvements including left turning lanes, a traffic signal and closure of two existing median crossings, were constructed.

Off-Street Parking. Twenty-four (24) off-street parking spaces are required and are provided.

- 5. OPEN SPACE/LANDSCAPED AND COMMON AREA:** No common area is proposed. Landscaped space is approximately 60% of the site's coverage.
- 6. CHARACTER OF THE NEIGHBORHOOD:** The highway corridor is a service commercial neighborhood characterized primarily by individual building sites. Open sales display lots of vehicles and equipment are a common feature of the corridor.

Lot 7 & 8, Midway Wholesale

- 1. LANDSCAPING:** The front yard, east side yard and a portion of the rear yard will primarily grass lawn area. The landscape plan notes lawn area along South Port Drive will be irrigated. The grass areas on the east and south side of the site will not be irrigated. A planter bed will be along the north façade of the building and will consist of ornamental shrubs and grasses. Deciduous and evergreen trees are proposed in the front yard area.

Attachment No. 3

2. **SCREENING:** The equipment and materials storage area will be enclosed with a six (6) foot tall chain link fence with screening slats. The fence will enclose all areas of the storage area, with the exception of the off-street parking lot.
3. **DRAINAGE:** The site will drain towards South Port Drive where it will be collected by the stormwater sewer system or drain to the south towards a drainage ditch along the Union Pacific Railroad right-of-way.

Sump pumps are proposed in the lowered loading dock areas to pump the collected stormwater and pump it into the paved parking lot, where it will sheet flow towards the street to the north

4. **CIRCULATION:** The existing street system provides an internal circulation plan which is safe, convenient and efficient for movement of goods, motorists, and pedestrians. Conflicts between motorists and pedestrians are minimized.

Public Access. Pedestrians will be accommodated by sidewalks that will be constructed throughout the development located along one side of streets, as the development builds out.

As a part of the development of Lots 7 & 8, public sidewalk will be constructed in South Port Drive right-of-way to the north of the site.

Traffic. In 2006, a Traffic Report was submitted and accepted by the City Engineer. Access to the development is from U.S.-24 Highway onto a main entry drive to the internal streets of the development, which connect to the east and west of the PUD. Major highway improvements including left turning lanes, a traffic signal and closure of two existing median crossings, were constructed.

Off-Street Parking. Fifteen (15) off-street parking spaces are required and are provided.

5. **OPEN SPACE/LANDSCAPED AND COMMON AREA:** No common area is proposed. Landscaped space is approximately 21% of the site's coverage.
6. **CHARACTER OF THE NEIGHBORHOOD:** The highway corridor is a service commercial neighborhood characterized primarily by individual building sites. Open sales display lots of vehicles and equipment are a common feature of the corridor.

MATTERS TO BE CONSIDERED WHEN REZONING

1. EXISTING USE: Lots 2, 7 & 8 are vacant commercial lots.

2. PHYSICAL AND ENVIRONMENTAL CHARACTERISTICS:

Lot 2: The site is a flat, square shaped lot with frontage on two (2) public rights-of-way, U.S. Highway 24 and South Port Drive. No access is permitted along the property line.

Lot 2 is shown on effective Flood Insurance Rate Map (FIRM) Panel 359 of 500, dated July 6, 2010, in the 0.2% annual chance flood plain (500-year).

The site is also shown in the 0.2% annual chance flood plain (500-year) on the Preliminary FIRM for Riley County, undated Panel 359 of 500. Preliminary FIRMS are expected to be adopted in 2013-2014 time period. Zone X is for informational purposes only and is not used for regulatory purposes.

Lot 7 & 8: If approved, the two (2) platted lots will be combined into a zoning lot. The zoning lot is a relatively flat, irregular shaped lot to the south of South Port Drive. The effective Flood Insurance Rate Map (FIRM) Panel 359 of 500, dated July 6, 2010, does not show a mapped floodplain on the site.

The Preliminary FIRM shows the site to be within the 0.2% annual chance flood plain (500-year).

3. SURROUNDING LAND USE AND ZONING:

(a.) NORTH: U.S.-24 Highway, cultivated agricultural field, highway service commercial and retail uses, and undeveloped tract (future Heritage Square North); Pottawatomie County CH, Highway & Commercial Corridor District.

(b.) SOUTH: Railroad; agricultural fields, Kansas River; Pottawatomie County A-1, General Agriculture District.

(c.) EAST: Highway service commercial and retail uses; Pottawatomie County CH, Highway & Commercial Corridor District.

(d.) WEST: Furniture sales, storage units, and similar highway service commercial and retail uses, livestock sales; Pottawatomie County CH, Highway & Commercial Corridor District.

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

5. SUITABILITY OF SITE FOR USES UNDER CURRENT ZONING: Lots 2, 7 and 8 are suitable for commercial development for the uses under the current zoning, as approved with the Preliminary Development Plan, subject to Condition No. 11, Ordinance No. 6607.

6. COMPATIBILITY OF PROPOSED DISTRICT WITH NEARBY PROPERTIES AND EXTENT TO WHICH IT MAY HAVE DETRIMENTAL AFFECTS: Minimal impact on adjacent commercial property in the Heritage Square South PUD with respect to light, noise, and traffic is anticipated. Lots 2, 7 and 8 are intended to develop as a commercial lots in a manner similar to other commercial sites in the PUD.

Lot 2: The Preliminary PUD shows a building footprint with the storefront oriented towards the south along South Port Drive. The rear of the preliminary building was shown to be towards U.S. Highway 24. The proposed building's storefront will face U.S.-24 Highway, with the rear of the building facing the internal street (South Port Drive). Facing the proposed building towards a major highway is more compatible with the highway oriented businesses found in the development. Dollar General was recently approved to have a similar orientation. The change in orientation should not have a substantial negative effect on the businesses to the south that are separated from Lot 2 by a public street. Trash containers and HVAC will be screened.

Lot 7 & 8: The Preliminary PUD shows Three (3) commercial buildings on the two (2) lots. Lot 8 was shown to have a building with its front façade facing north towards South Port Drive with an off-street parking lot between the building and the street right-of-way. Lot 7 was shown to have two buildings on it. The eastern building appears to have a business facing South Port Drive and another facing to the west towards the western building. The east and west buildings were separated by an off-street parking lot. The proposed development on Lots 7 & 8 has two (2) buildings and a large enclosed equipment and materials storage yard. The layout of the two (2) lots should not have a detrimental effect on the businesses within the commercial development or on adjacent properties. The development is at the rear of the commercial development and will be adequately screened to avoid any visual conflicts with the rest of the development or adjacent properties.

7. CONFORMANCE WITH COMPREHENSIVE PLAN: The Future Land Use Map for the Northeast Planning Area of the Manhattan Urban Area Comprehensive Plan designates the site as Community Commercial (CC). The Comprehensive Plan also reflects the land use designation of the US 24 Corridor Plan developed by Pottawatomie County. The site is also subject to the US 24 Corridor Special Planning Area Policies in the Comprehensive Plan.

The existing PUD was found to conform to the Comprehensive Plan in 2006. The proposed PUD amendment conforms to the Manhattan Urban Area Comprehensive Plan.

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

June 29, 2006: City of Manhattan receives requests for island annexation of the proposed Heritage Square North and Heritage Square South tracts from Roger Schultz and Rob Eichman.

July 11, 2006: City Commission approves Resolution Nos. 071106-H & I, requesting the Board of Pottawatomie County Commissioners to make positive findings regarding the requested island annexation of Heritage Square North and Heritage Square South.

July 27, 2006: Board of Pottawatomie County Commissioners makes positive findings regarding the island annexations of Heritage Square North and Heritage Square South.

August 15, 2006: City Commission approves first reading of ordinances annexing Heritage Square North and Heritage Square South; and, approves Resolution No. 081506-A, requesting the Board of Pottawatomie County Commissioners to make positive findings regarding the island annexation of that portion of the US 24 Right-of-way that adjoins Heritage Square.

August 18, 2006: City of Manhattan receives Consent To Annexation from the Kansas Department of Transportation for that portion of the US Highway 24 right-of-way that adjoins Heritage Square South, consisting of 6.791 acres.

August 21, 2006: Board of Pottawatomie County Commissioners makes positive findings regarding the island annexation of that portion of the US Highway 24 right-of-way that adjoins Heritage Square South.

Attachment No. 3

- October 16, 2006; Manhattan Urban Area Planning Board holds public hearing and recommends approval (7-0), of the rezoning the proposed Heritage Square South and the adjoining US Highway 24 right-of-way from County - CH, Highway & Commercial Corridor District, to PUD, Commercial Planned Unit Development District.
- November 7, 2006 City Commission approved first reading of an ordinance annexing the 6.8-acre portion of the US Highway 24 right-of-way that adjoins the Heritage Square South development; and, approved first reading of an ordinance rezoning the proposed Heritage Square South development and the adjoining portion of US Highway 24 right-of-way, to PUD, Planned Unit Development District.
- February 6, 2007 City Commission approves Ordinance No. 6606 annexing proposed Heritage Square North, proposed Heritage Square South and the 6.8-acre portion of the US Highway 24 right-of-way that adjoins Heritage Square South; and, approved Ordinance No.6607 rezoning the Heritage Square South and the adjoining portion of US Highway 24 right-of-way, to PUD, Commercial Planned Unit Development District.
- March 5, 2007 Manhattan Urban Area Planning Board approves the Final Development Plan (Lots 1, 6, and 9) and Final Plat of the Heritage Square South Addition (Lots 1-10).
- March 15, 2007 City Commission accepts the easements and rights-of-way as shown on the Final Plat of Heritage Square South Addition.
- July 17, 2007 City Commission approves first reading of an ordinance renaming Heritage South Road to South Port Road, and Heritage Square Drive to South Port Drive, in Heritage Square South P.U.D. Addition.
- August 14, 2007 City Commission approves Ordinance No. 6651 renaming Heritage South Road to South Port Road, and Heritage Square Drive to South Port Drive, in Heritage Square South P.U.D. Addition.

- January 24, 2013 Manhattan Urban Area Planning Board recommends approval of proposed amendment of Ordinance No. 6607 and the Preliminary Development Plan of Lot 3, Heritage Square South Commercial Planned Unit Development, to be known as the Final Development Plan of Lot 3, Heritage Square South Commercial Planned Unit Development, based on the findings in the Staff Report.
- February 19, 2013 City Commission approves first reading of an ordinance amending Ordinance No. 6607 and the Preliminary Development Plan of Lot 3, Heritage Square South Commercial Planned Unit Development, to be known as the Final Development Plan of Lot 3, Heritage Square South Commercial Planned Unit Development.
- March 5, 2013 City Commission approves Ordinance No. 6991 amending the Preliminary Development Plan of Lot 3, Heritage Square South Commercial Planned Unit Development and Ordinance No. 6607, as proposed, based on the findings in the Staff Report.

9. CONSISTENCY WITH INTENT AND PURPOSE OF THE ZONING ORDINANCE: The intent and purpose of the Zoning Regulations is to protect the public health, safety, and general welfare; regulate the use of land and buildings within zoning districts to assure compatibility; and to protect property values. The PUD Regulations are intended to provide a maximum choice of living environments by allowing a variety of housing and building types; a more efficient land use than is generally achieved through conventional development; a development pattern that is in harmony with land use density, transportation facilities and community facilities; and a development plan which addresses specific needs and unique conditions of the site which may require changes in bulk regulations or layout.

The proposed PUD amendment is consistent with Ordinance No. 6607, and the approved PUD, the Manhattan Zoning Regulations, and PUD requirements of the Manhattan Zoning Regulations. The amendment process is required before development of Lots 2, 7 and 8 can proceed. The amendment process insures the PUD conforms to the requirements of all 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 gain to the public that denial would accomplish. Denial of the rezoning may be a hardship to the owner.

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

The Final Plat of Heritage Square South, Unit Two has been submitted, which will shift the western lot line of Lot 2 fifteen (15) to the east to accommodate the needs of the new Dollar General store to the west. Adequate utility easements are shown on the proposed plat to accommodate the proposed development on Lot 2. (see staff memorandum for specifics of the Final Plat)

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

13. STAFF COMMENTS: All provisions of Ordinance No. 6607 that are not in conflict with this amendment shall remain in force.

City Administration recommends approval of an ordinance amending Ordinance No. 6607 and the approved Preliminary Development Plan of Lots 2, 7 and 8, Heritage Square South Commercial Planned Unit Development, to be known as the Final Development Plan of Lot 2, Heritage Square South Commercial Planned Unit Development, Unit Two, and the Final Development Plan of Lots 7 and 8, Heritage Square South Commercial Planned Unit Development.

ALTERNATIVES:

7. Recommend approval of an ordinance amending Ordinance No. 6607 and the approved Preliminary Development Plan of Lots 2, 7 and 8, Heritage Square South Commercial Planned Unit Development, to be known as the Final Development Plan of Lot 2, Heritage Square South Commercial Planned Unit Development, Unit Two, and the Final Development Plan of Lots 7 and 8, Heritage Square South Commercial Planned Unit Development, stating the basis for such recommendation.
8. Recommend denial of an ordinance amending Ordinance No. 6607 and the approved Preliminary Development Plan of Lots 2, 7 and 8, Heritage Square South Commercial Planned Unit Development, to be known as the Final Development Plan of Lot 2, Heritage Square South Commercial Planned Unit Development, Unit Two, and the Final Development Plan of Lots 7 and 8, Heritage Square South Commercial Planned Unit Development, stating the specific reasons for denial.
9. Table the proposed Amendment to a specific date, for specifically stated reasons.

POSSIBLE MOTION:

The Manhattan Urban Area Planning Board recommends approval an ordinance amending Ordinance No. 6607 and the approved Preliminary Development Plan of Lots 2, 7 and 8, Heritage Square South Commercial Planned Unit Development, to be known as the Final Development Plan of Lot 2, Heritage Square South Commercial Planned Unit Development, Unit Two, and the Final Development Plan of Lots 7 and 8, Heritage Square South Commercial Planned Unit Development, based on the findings in the Staff Report.

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

DATE: May 23, 2013.

**AMENDMENT OF AN ORDINANCE AND THE FINAL DEVELOPMENT PLAN
OF A MIXED USE PLANNED UNIT DEVELOPMENT**

APPLICANT/OWNER: Jon Henry. (*Note: The applicant is the owner of all three properties in the PUD, which include 514, 518 and 522 Yuma Street.*)

APPLICANT'OWNER'S ADDRESS: 514 Yuma Street, Manhattan, KS 66502.

PROPOSED AMENDMENTS:

Request and Amendments.

The applicant/owner has requested an amendment of Ordinance No. 6568 to convert and remodel the current vacant first floor commercial retail space at 518 Yuma Street to two, one bedroom dwelling units. The space was formerly occupied by Treasures of the Heart antique store. The amendment is in the form of a Final Development Plan, which includes the revised floor plan for 518 Yuma Street, and a site plan for the existing 19 off-street parking spaces serving the entire PUD, which was reduced with the building permit for 518 Yuma Street from 20 to 19 parking spaces. No other changes to the PUD are proposed.

Sheets C1 and A2 of the attached approved Final Development Plan are revised with the amendments.

Substantial Modifications of the Approved Residential Density and Floor Area.

The amendment is required because the Manhattan Zoning Regulations, Article IX, Section 9-108 (C) (2) indicates that an increase in net residential density greater than 5% is a substantial modification; and, Section 9-108 (C) (3), which indicates that an increase in floor area of a residential building of more than 10% is a substantial modification. The proposed changes are substantial modifications to net density for the entire PUD, and residential floor area of 518 Yuma Street and the entire PUD.

Net Density.

The conversion of the floor space from retail to residential results in an increase of total dwelling unit count within the entire PUD from 7 dwelling units to 9 dwelling units, which is an increase in net density within the approved PUD from 13.5 dwelling units per gross acre to 17.4 dwelling units per gross acre ($17.4-13.5/13.5=.288 \times 100$), or a 29% increase in net residential density.

Net Floor Area.

Residential floor area within the mixed use building at 518 Yuma Street increases from 1,282 square feet on the second floor to 2,472 square feet total as a result of the additional 1,190 square feet of residential floor area for the two units on the first floor ($2472-1282/1282=.928 \times 100$), or a 93% increase in floor area of the residential building at 518 Yuma Street.

The increase of total existing residential floor area for the entire PUD is 20%, based on all residential building floor areas compared to proposed total residential floor space floor space (2,400 square feet at 514 Yuma Street, and 2,234 square feet at 522 Yuma Street combined with 2,472 square feet at 518 Yuma Street) ($7106-5916/5916=.201 \times 100$).

(Note: The common foyer entrance on the first floor and stairwell to the second floor were not counted as floor area because neither is living area. The storage, mechanical room and bathroom basement space was not included in the floor area for 514 Yuma Street. If the basement space is expanded for residential living purposes, separate calculations will be made have to be made prior to expansion to determine compliance with Article IX PUD standards for residential floor area and/or density.)

LOCATION: The location of the amendment site is 518 Yuma Street, which is on the north side of Yuma Street mid block between S. 5th Street and S. 6th Street. 518 Yuma Street is the middle lot in the PUD with 514 Yuma Street to the immediate east and 522 Yuma Street to the immediate west.

LEGAL DESCRIPTION: The legal description of the amendment site is Lot 2, Treasures of the Heart, PUD, an Addition to the City of Manhattan, Kansas.

AREA: The area of the amendment site, Lot 2, is 7,826 square feet (.180 acres). The balance of the PUD is Lot 1: 7,636 square feet, .175 acres; and Lot 3: 7,073 square feet, .162 acres. Total area in the PUD is 22,535 square feet and 0.517 acres.

DATE OF NEIGHBORHOOD MEETING: April 14, 2013.

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

DATE OF PUBLIC HEARING: PLANNING BOARD: Monday, June 3, 2013.
CITY COMMISSION: Tuesday, June 18, 2013.

EXISTING PUD

Ordinance No.

The PUD is subject to Ordinance No. 6568, adopted May 7, 2002 (*attached*).

Permitted Uses.

Permitted Uses in the PUD include single-family residential, two-family residential, multiple-family residential and a broad range of commercial retail uses and several service commercial uses such as barber shops, beauty shops and tailors (*see attached Ordinance for complete list*).

Existing Structure and Off-Street Parking.

Treasures of the Heart Mixed Use PUD consists of three structures, two-residential structures and one mixed use structure; seven total dwelling units, a vacant commercial space; and, a total of 19 off-street parking spaces. Parking was reduced to 20 off-street parking spaces with the Final Development Plan approval and later to 19 parking spaces due to design complications as a part of providing ADA parking on the amendment site. In addition, private covenants were submitted with the Final Development Plan granting a cross easement to allow shared parking between properties. (*Construction date information was obtained from the Riley County GIS web page.*)

- Lot 1, 514 Yuma Street: The two-story, four-family dwelling unit, is a residential structure originally constructed in 1945 and converted to four, one-bedroom dwelling units at a later date. The existing dwelling structure is built with two dwelling units per floor, with basement for storage, bathroom and mechanical equipment. There is a detached garage at the rear of the lot, which is accessed off the concrete paved public alley. There are four off-street parking spaces on Lot 1, two on a concrete paved open to the sky parking pad and two in the garage.
- Lot 2, 518 Yuma Street: The two-story mixed use commercial/residential structure was constructed in 2009, and built with first floor commercial space (vacant and formerly occupied as an antique store) and second floor three bedroom single-family dwelling unit. There are eleven open concrete paved off-street parking spaces located at the rear of the lot, which are accessed from the alley.
- Lot 3, 522 Yuma Street: The one-story, two-family dwelling unit is a residential structure originally built in 1960 and converted at a later date to two-dwelling units. The dwelling structure is built with a three bedroom dwelling unit on the first floor, and a one bedroom dwelling unit in the basement. There is a detached garage at the rear of the property accessed off the alley. There are four off-street parking spaces on Lot 3, two in a garage and two on a paved open parking pad.

PROPOSED AMENDMENT

Proposed Use and Building: Minor external changes to the building at 518 Yuma Street are proposed at the rear to relocate a back door. All other changes are interior modifications of the first floor at 518 Yuma Street. The building maintains its residential character.

The commercial floor space will be divided into two mirror image one bedroom dwelling units consisting of kitchen, living room, mechanical room, bathroom, bedroom and closet space. Each unit is accessed from a separate door through a common foyer entrance.

PROPOSED LIGHTING: No changes are proposed.

MATTERS TO BE CONSIDERED WHEN AMENDING A PLANNED UNIT DEVELOPMENT

1. WHETHER THE PROPOSED AMENDMENT IS CONSISTENT WITH THE INTENT AND PURPOSE OF THE APPROVED PUD, AND WILL PROMOTE THE EFFICIENT DEVELOPMENT AND PRESERVATION OF THE ENTIRE PUD: The proposed amendment is consistent with the approved PUD, which allows residential buildings, and because in the applicant's words, "Within the current PUD surrounding 518 Yuma, there are numerous commercial, single family housing and multi-family housing. By requesting a change of use, from commercial to multiple single family dwelling units we are staying within the current neighborhood usage."

2. WHETHER THE PROPOSED AMENDMENT IS MADE NECESSARY BECAUSE OF CHANGED OR CHANGING CONDITIONS IN OR AROUND THE PUD, AND THE NATURE OF SUCH CONDITIONS: The amendments are necessary because the standards to evaluate the proposed changes are greater than the percent increases allowed for net density and residential floor are. In the applicant's words, the amendments are necessary because, "We have seen the addition of downtown residential rental property as the building of new shopping areas surrounding the Manhattan Town Center. The proposed change in use will provide for additional housing in this area as well."

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 resulting relative gain to the public is expressed in the applicant's words, "Currently the ground floor of 518 Yuma is vacant, the

antique store that was located here for a short time could just not compete with the newer shopping areas as we believe that it was just too far off the beaten path. By building two single family dwelling units, we will be bringing potential shoppers/workers to within walking distance of an area of commerce.” No adverse affect on the public is expected as the changes are interior remodeling to convert the commercial ground floor to residential space. The applicant’s consultant has contacted the Code Services Department to insure applicable building code requirements will be met with the conversion/remodel.

ADDITIONAL MATTERS TO BE CONSIDERED WHEN AMENDING A PLANNED UNIT DEVELOPMENT

- 1. LANDSCAPING:** No change to the approved landscape plan is proposed.
- 2. SCREENING:** A trash enclosure on the amendment site is located on the east side of the parking pad and is screened with a wood fence. The existing dumpster in the northwest corner of Lot 3 is not screened. The Manhattan Zoning Regulations does not require sight obscuring screening of trash receptacles for two family dwelling structures, which is the residential use on Lot 3. City Administration recommends the dumpster be screened with six foot sight obscuring fencing to be determined prior to issuance of the building permit on Lot 2.
- 3. DRAINAGE:** No changes to the drainage are proposed as a result of the interior remodeling of 518 Yuma Street.
- 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. Access to the amendment site is from Yuma Street and sidewalk connections from public sidewalk on the north side of Yuma Street and private sidewalk to the front door of the building. Off-street parking to the rear of the amendment site is accessed from the public alley.

Off-Street Parking.

There are 11 off-street parking spaces proposed for the amendment site. The approved PUD required one parking space for each bedroom. There are three existing bedrooms and two proposed, or five total bedrooms at the amendment site and eleven parking spaces are provided. There are eight off-street parking spaces on the adjoining two lots. Future conversions of any use on any or all lots in the entire PUD may necessitate the need for shared parking. A private covenant was submitted with the Final Development Plan to insure a cross easement between properties to share parking. As a private agreement, the shared provision could be changed among owners. The PUD amendment is conditioned on a requirement to share off-street parking.

5. OPEN SPACE/LANDSCAPED AND COMMON AREA: No exterior changes to the existing landscaped space are proposed

6. CHARACTER OF THE NEIGHBORHOOD: The overall character of the surrounding neighborhood is generally medium density residential, with a combination of owner occupied and rental homes throughout the established neighborhood. Further to the east, on both the north and south sides of Yuma Street, are two sites zoned C-5, Highway Service Commercial District. Document Resources and associated parking area occupies the C-5 lot on the north side of Yuma, while the C-5 lot to the south is currently vacant and used as vehicle storage.

MATTERS TO BE CONSIDERED WHEN REZONING

1. EXISTING USE: The amendment site is a mixed use commercial retail first floor and second floor, three bedroom dwelling unit.

2. PHYSICAL AND ENVIRONMENTAL CHARACTERISTICS: The amendment site is relatively flat with the north half draining to the north to the public alley and the south half to Yuma Street. Grass and trees are on the site, which is in the 0.2% Annual Chance Flood Plain (commonly called the 500 Year Flood Plain), and is not regulated for flood plain development purposes.

3. SURROUNDING LAND USE AND ZONING:

(a.) NORTH: Public alley, owner occupied, group home, and rental homes; R-M, Four-Family Residential District, with TNO, Traditional Neighborhood Overlay District.

(b.) SOUTH: Yuma Street and a mix of owner occupied and rental homes, vacant residential lot, and gravel parking lot; R-M/TNO District, and C-5 District.

(c.) EAST: An existing parking lot located in a residential district used by a commercial office building located further to the east in a service commercial district, South 5th Street; R-M/TNO, District, and C-5 District.

(d.) WEST: A mix of owner occupied and rental single-family and two-family residential homes located on the north and south sides of Yuma Street, and South 6th Street; R-M/TNO District.

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 a range of commercial and residential uses set out in Ordinance No. 6568, and is suitable for the range of uses. The remodel of the first floor plan at 518 Yuma Street from commercial space to residential space results in an increase in residential density and residential floor area greater than allowed by Article IX of the Manhattan Zoning Regulations, which requires an amendment prior to conversion of the floor space.

6. COMPATIBILITY OF PROPOSED DISTRICT WITH NEARBY PROPERTIES AND EXTENT TO WHICH IT MAY HAVE DETRIMENTAL AFFECTS: The approved PUD allows a mix of residential and commercial uses. Two existing residential structures exist on Lots 1 and 3, which remain as residential uses. Commercial uses approved on the first floor of the amendment site and a residential three-bedroom apartment on the second floor, are not consistent with the residential neighborhood to the north and west but the remodel of the first floor at 518 Yuma Street establishes a use in keeping with the R-M/TNO neighborhood.

7. CONFORMANCE WITH COMPREHENSIVE PLAN: The site is shown on the Downtown Core Neighborhoods Future Land Use Map of the Comprehensive Plan as Residential Medium High density (RMH). Applicable policies (*Italics*) include:

RESIDENTIAL MEDIUM/HIGH DENSITY (RMH)

RMH 1: Characteristics

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

RMH 2: Appropriate Density Range

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

RMH 3: Location

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

RMH 4: Variety of Housing Styles

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

Policies for Neighborhood Commercial Centers in policy RMH1 above include:

NEIGHBORHOOD COMMERCIAL CENTER (NCC)

NCC 1: Characteristics

Neighborhood Commercial Centers are intended to provide a range of services, including supermarkets, restaurants, movie rentals, drycleaners, drugstores, filling stations, smaller specialty shops, retail and health services and business and professional offices, for residential areas. Neighborhood centers will vary in scale and character. Smaller, limited use centers may be fully integrated into the surrounding neighborhood and be accessed primarily by pedestrian or bicycle; while larger centers will function more independently, providing ample parking and numerous stores. Mixed-Use Neighborhood Centers that also incorporate residential uses are appropriate in a master planned setting. Neighborhood Centers often serve more than one nearby neighborhood in order to maintain sufficient economy of scale.

NCC 2: Location

Neighborhood centers should generally be located at the intersection of arterial and collector streets. However, smaller centers with limited uses may be appropriate within a residential area at the intersection of two collector streets, or at the intersection of a collector and a local street, provided they are designed to be compatible with the surrounding neighborhood and meet a minimum level of design criteria.

NCC 3: Size

Neighborhood centers typically require a site of approximately 10 acres, but may vary, ranging from as small as 1-3 acres to as large as 15-20 acres depending on the size of its service area and the extent of its mixed-use characteristics.

NCC 4: Architectural Character

Neighborhood Centers shall be designed to be compatible with and sensitive to surrounding residences. Building materials and architectural detailing should be compatible with and reflect the character of the surrounding neighborhood. Building heights and scale should be similar to surrounding residences.

NCC 5: Circulation and Access

Main entrances and driveways should be integrated with the surrounding street network to provide clear connections between uses for vehicles, pedestrians, and bicycles. Clear, direct pedestrian connections shall be provided between uses within the center and to the surrounding neighborhood.

NCC 6: Parking Location and Design

Large, uninterrupted expanses of parking should be avoided. Parking areas shall be divided into smaller “blocks” by landscaping and walkways. To the extent possible, parking blocks shall be distributed between the front and sides of buildings, or the front and rear, rather than placed solely in front of building.

NCC 7: Transitions between Uses

Attractive transitions should be provided between the center and surrounding residences, while not limiting access between the center and the neighborhood for all modes of travel. Transitions can be accomplished by stepping down the height of taller structures to meet residences, providing landscape buffers or screening, or similar means. Use creative design to avoid simply “walling” off residential areas from neighborhood centers.

In addition, the Downtown Tomorrow Redevelopment Plan shows the area west of s. 5th Street along Yuma Street as RMH, with commercial uses to the east of S. 5th Street. The rezoning of the site to RM/TNO District was intended to encourage the preservation of the residential character of the neighborhood west of S.5th Street.

No specific finding(s) were made regarding conformance of the approved PUD to the Comprehensive Plan. The preponderance of the facts supported the request to rezone to PUD in 2006.

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

- | | |
|--------------------|--|
| August 21, 2006 | Manhattan Urban Area Planning Board recommended approval of the proposed rezoning of the Treasures of the Heart PUD from R-M, Four-Family Residential District with TNO, Traditional Neighborhood Overlay District, to PUD, Planned Unit Development District, with 5 conditions. |
| September 5, 2006 | City Commission approves first reading of an ordinance rezoning of the Treasures of the Heart PUD from R-M, Four-Family Residential District with TNO, Traditional Neighborhood Overlay District, to PUD, Mixed-Use Planned Unit Development District with six (6) conditions of approval. |
| September 19, 2006 | City Commission approves Ordinance No. 6568 rezoning 514 and 522 Yuma Street, to PUD, Mixed-Use Planned Unit Development District with six (6) conditions of approval. |

Attachment No. 4

- Nov. 6, 2006 Manhattan Urban Area Planning Board approves the Final Plat of Treasures of the Heart PUD Addition, based on conformance with the Manhattan Urban Area Subdivision Regulations.
- Nov. 21, 2006 City Commission accepts the easements and rights-of-way, as shown on the Final Plat of Treasures of the Heart PUD Addition.

The two-story mixed use building at 518 Yuma Street was constructed in 2009.

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 the approved PUD, which in its current format is primarily residential.

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 owner has invested significant time in preparing the amendment to meet the needs of the City's policies. 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 the amendment site.

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

13. STAFF COMMENTS AND RECOMMENDATION:

City Administration recommends approval of an amendment of Ordinance No. 6568 and the Revised Final Development Plan of Lot 2, Treasures of the Heart Mixed Use Planned Unit Development for a proposed conversion and remodel of the of the first floor commercial retail space at 518 Yuma Street to two, one bedroom dwelling units, and the revised off-street parking configuration for the PUD, with the following conditions of approval:

Attachment No. 4

1. There shall be shared off-street parking between Lots 1, 2 and 3, Treasures of the Heart Mixed Use PUD.
2. There shall be shared use of trash receptacles between Lots 1, 2 and 3 in Treasures of the Heart Mixed Use PUD.
3. The trash receptacle on Lot 3 shall be enclosed with six foot tall sight obscuring screening.

ALTERNATIVES:

1. Recommend approval of an amendment of Ordinance No. 6568 and the Revised Final Development Plan of Lot 2, Treasures of the Heart Mixed Use Planned Unit Development for a proposed conversion and remodel of the of the first floor commercial retail space at 518 Yuma Street to two, one bedroom dwelling units, and the revised off-street parking configuration for the PUD, with the three conditions of approval, stating the basis for such recommendation.
2. Recommend approval of an amendment of Ordinance No. 6568 and the Revised Final Development Plan of Lot 2, Treasures of the Heart Mixed Use Planned Unit Development for a proposed conversion and remodel of the of the first floor commercial retail space at 518 Yuma Street to two, one bedroom dwelling units, and the revised off-street parking configuration for the PUD, 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 condition(s) 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 an amendment of Ordinance No. 6568 and the Revised Final Development Plan of Lot 2, Treasures of the Heart Mixed Use Planned Unit Development for a proposed conversion and remodel of the of the first floor commercial retail space at 518 Yuma Street to two, one bedroom dwelling units, and the revised off-street parking configuration for the PUD, with the three conditions of approval, based on the findings in the Staff Report

PREPARED BY: Steve Zilkie, AICP, Senior Planner.

DATE: May 28, 2013.