



MINUTES
CITY COMMISSION MEETING
TUESDAY, AUGUST 6, 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 City Manager Ron R. Fehr, Deputy City Manager Jason Hilgers, City Attorney Bill Raymond, City Clerk Gary S. Fees, 15 staff, and approximately 35 interested citizens.

PLEDGE OF ALLEGIANCE

Mayor Matta led the Commission in the Pledge of Allegiance.

PUBLIC COMMENTS

Mayor Matta opened the public comments.

Randi Dale, 2416 Rogers Boulevard, thanked the City Commission for the briefing earlier in the evening on the Peace Memorial Auditorium and for being allowed to have a future hearing to rethink this. She provided additional information on the Auditorium and asked that the World War II Veterans and those fighting overseas not be forgotten. She asked the Commission to think about the veterans and the importance of the history and the meaning and purpose of the Auditorium, stage, permanent seating, and basketball court. She encouraged all of us to honor and remember the World War II Veterans and our history. She thanked the Commission for letting them have another chance.

John Pence, 2361 Grandview Terrace, informed the Commission that if you have the opportunity to hear Linda Glasgow provide a history of the Auditorium you should do so and encouraged the Commission to schedule a work session or listen to her presentation. He asked about the invitation for bids for the Manhattan Regional Airport and if the project would be funded by the Federal government, partially by the Federal government, or if it would be funded by tax dollars.

Ron Fehr, City Manager, responded to questions and stated that the intent is to receive a Federal Discretionary Grant to fund the majority of the project. He stated that the local share is anticipated to be paid from fees collected by a Passenger Facility Charge.

PUBLIC COMMENTS (CONTINUED)

John Pence, 2361 Grandview Terrace, asked if the new Sunset Zoo building was having a preschool and if so, would it be a breakeven operation or a profit center.

Ron Fehr, City Manager, stated that Sunset Zoo facility would be operating a new childcare center and that it was part of the program that voters approved for the new facility. He provided additional information on the item and informed Mr. Pence that a previous City Commission approved the childcare center and that the center is designed to pay for itself.

John Pence, 2361 Grandview Terrace, expressed concerns with the additional expense and future traffic considerations for the proposed bike lane along the sidewalk on North Manhattan Avenue and Bluemont Avenue. He requested that this item be looked at again, unless the project was already signed, sealed, and delivered.

Mayor Matta stated that the Aggieville Business Association initially opposed this project and then changed their minds and voiced support for the project, which a majority of the City Commission ultimately supported.

Commissioner Butler informed Mr. Pence that the Bicycle Advisory Committee looked at this item too and the Committee supported the project.

Andy Kazar, 4220 Taneil Drive, asked about the K-18/K-113 proposed improvements.

Mayor Matta stated that the Public Comments section is for non-agenda items only and that comments relating to the K-18/K-113 Interchange Improvements Study would be heard later during discussion of the agenda item.

Lanard Reid, 526 Vattier Street, informed the Commission that he attended a City Commission meeting last month and stated that he has an ongoing racial and bias treatment towards him. He informed the Commission that he submitted paperwork to the Commissioners last month with two pages of names of people that know him. He wondered if any of those people were contacted by members of the City Commission.

Commissioner Jankovich informed Mr. Reid that he contacted and received responses from several individuals.

Lanard Reid, 526 Vattier Street, stated that he received two sets of paperwork returned to him untouched and has received indifference to him since he returned back to Manhattan. He informed the Commission of a recent situation last Saturday and stated that he was threatened by a bar owner in Aggieville and the police showed up; it was not a good sign. He provided additional information regarding his discussions with the personnel at the

PUBLIC COMMENTS (CONTINUED)

Riley County Police Department and comments made, being accused of going around Manhattan and causing trouble.

Mayor Matta informed Mr. Reid that the City Commission is not an investigative body. He stated that if you have a legal issue and feel you are being discriminated against, you need to go to the Human Rights and Services Board or personally seek legal advice for your concerns.

Lanard Reid, 526 Vattier Street, informed the Commission that he planned to attend the Riley County Law Board meeting this month and provided a list of agencies that he has contacted to help him resolve this issue with the Riley County Police Department and some of the citizens. He stated that he would continue to be persistent and thanked the Commissioners for their time.

Hearing no other comments, Mayor Matta closed the public comments.

COMMISSIONER COMMENTS

Commissioner Jankovich informed the community that on Saturday, August 10, 2013, the Manhattan Konza Rotary Club is hosting Water Matter's Day and encouraged people to attend. He stated that during the morning at the Manhattan Public Library this event will include a host of speakers discussing water issues, and displays and events will be available at City Pool in the afternoon, including a demonstration from a world-class kayaker. He also said that it is time for schools to begin in Manhattan. He encouraged those that have the opportunity, desire, and time to get involved with the Schools of Hope Reading Program, to contact RSVP for additional information about the Program.

Commissioner Reddi stated that August 14, 2013, is the first day of school for Manhattan-Ogden USD 383. She encouraged drivers to be cautious and patient with school busses and children crossing the street during this time.

Commissioner McCulloh said that it doesn't seem possible that school is almost starting. She informed the community that there will be a future work session in the fall with the Parks and Recreation Advisory Board regarding the pools. She asked that if citizens have comments that they would like to share regarding the pools, please contact her.

CONSENT AGENDA

(* denotes those items discussed)

MINUTES

The Commission approved the minutes of the Regular City Commission Meeting held Tuesday, July 16, 2013.

CLAIMS REGISTER NO. 2737

The Commission approved Claims Register No. 2737 authorizing and approving the payment of claims from July 10, 2013, to July 30, 2013, in the amount of \$4,129,158.62.

LICENSES

The Commission approved a Tree Maintenance License for calendar year 2013 for Haslett Tree Service, 105 Tremont Street, Junction City, and an annual Cereal Malt Beverages Off-Premises License for Hy-Vee Gas, 206 Leavenworth Street.

ORDINANCE NO. 7018 – ADOPT – 2012 INTERNATIONAL BUILDING CODE

The Commission approved Ordinance No. 7018 adopting the 2012 edition of the International Building Code.

ORDINANCE NO. 7019 – ADOPT – 2012 INTERNATIONAL EXISTING BUILDING CODE

The Commission approved Ordinance No. 7018 adopting the 2012 edition of the International Existing Building Code.

ORDINANCE NO. 7020 – ADOPT – 2012 INTERNATIONAL FIRE CODE

The Commission approved Ordinance No. 7018 adopting the 2012 edition of the International Fire Code.

ORDINANCE NO. 7021 – ADOPT – 2012 INTERNATIONAL FUEL GAS CODE

The Commission approved Ordinance No. 7018 adopting the 2012 edition of the International Fuel Gas Code.

ORDINANCE NO. 7022 – ADOPT – 2012 INTERNATIONAL MECHANICAL CODE

The Commission approved Ordinance No. 7018 adopting the 2012 edition of the International Mechanical Code.

ORDINANCE NO. 7023 – ADOPT – 2012 INTERNATIONAL PLUMBING CODE

The Commission approved Ordinance No. 7018 adopting the 2012 edition of the International Plumbing Code.

CONSENT AGENDA (CONTINUED)

ORDINANCE NO. 7024 – ADOPT – 2012 INTERNATIONAL PROPERTY MAINTENANCE CODE

The Commission approved Ordinance No. 7018 adopting the 2012 edition of the International Property Maintenance Code.

ORDINANCE NO. 7025 – ADOPT – 2012 INTERNATIONAL RESIDENTIAL CODE

The Commission approved Ordinance No. 7018 adopting the 2012 edition of the International Residential Code.

ORDINANCE NO. 7026 – ADOPT – 2011 NATIONAL ELECTRICAL CODE

The Commission approved Ordinance No. 7026 adopting the 2011 National Electrical Code.

ORDINANCE NO. 7027– AMEND – CONTRACTORS LICENSING AND DEMOLITIONN OF STRUCTURES

The Commission approved Ordinance No. 7027 amending Chapter 8 of the Code of Ordinances, City of Manhattan, Kansas, pertaining to the licensing of contractors and the demolition of structures.

ORDINANCE NO. 7028 – NO PARKING, NO PARKING SCHOOL DAYS 8 A.M. – 4 P.M., BUS LOADING ZONE – BERGMAN ELEMENTARY, MARLATT ELEMENTARY, BLUEMONT ELEMENTARY SCHOOL, AND MANHATTAN HIGH SCHOOL EAST CAMPUS

The Commission approved Ordinance No. 7028 designating a "No Parking" zone along the east side Gary Avenue from its intersection with Lombard Street, thence north 150 feet; a "No Parking School Days 8 A.M. - 4 P.M." zone along the north side of Hobbs Drive, from Browning Avenue to Vaughn Drive and along the west side of 8th Street, from Bluemont Avenue to Vattier Street; and a "Bus Loading Zone" along the east side of Browning Avenue from 320 feet south of centerline of Hobbs Drive thence south 200 feet; along the west side of 9th Street and east side of 10th Street, from Pierre Street to Poyntz Avenue; and along the west side of Westbaker Street from 350 feet south of Churchill Street, thence south 200 feet.

ORDINANCE NO. 7029 – REPLACE YIELD SIGNS WITH STOP SIGNS

The Commission approved Ordinance No. 7029 authorizing the replacement of yield signs with stop signs on the east and west approach's to 8th Street on Vattier Street.

CONSENT AGENDA (CONTINUED)

AWARD CONTRACT – THE CONGRESSIONAL ADDITION – WATER (WA1310), SANITARY SEWER (SS1309), AND STREET (ST1311) IMPROVEMENTS

The Commission accepted the Engineer's Opinion of Probable Cost, submitted by SMH Consultants, in the amount of \$1,248,136.50 and awarded and authorized the Mayor and City Clerk to execute a construction contract in the amount of \$1,049,728.10 with Bayer Construction, Inc., of Manhattan, Kansas, for The Congressional Addition Water (WA1310), Sanitary Sewer (SS1309), and Street (ST1311) Improvements.

REJECT BID – US 24 AND EAST POYNTZ AVENUE INTERSECTION IMPROVEMENTS (ST1107)

The Commission accepted the Engineer's Opinion of Probable Cost, submitted by the City Engineer, in the amount of \$558,343.15; rejected the bid from Emery Sapp and Sons, Inc., of Kansas City, Missouri, in the amount of \$615,362.12; and authorized staff to rebid the US 24 Highway and East Poyntz Avenue Intersection Improvements (ST1107) project with the US 24/Leavenworth Street project (ST1207) in 2014.

* **AWARD CONTRACT – AIRPORT PERIMETER WILDLIFE FENCE (AP1202, CIP #AP003P)**

Ron Fehr, City Manager, responded to questions from the Commission and provided clarification on the grant award and the City's share of the costs.

The Commission accepted the Engineer's Opinion of Probable Cost, submitted by Mead and Hunt, Inc., in the amount of \$851,210.00 and awarded and authorized the Mayor and City Clerk to execute a construction contract in the amount of \$668,532.03 with RMD Holdings, LTD, of Chesterfield, Michigan, contingent on receipt of Federal Aviation Administration (FAA) funding, for the Airport Perimeter Wildlife Fence (AP1202).

* **TASK ORDER NO. 9 – AIRPORT PERIMETER WILDLIFE FENCE (AP1202, CIP #AP003P)**

Ron Fehr, City Manager, responded to questions from the Commission and provided clarification on the grant award and the City's share of the costs.

The Commission authorized the Mayor and City Clerk to execute Task Order No. 9 in the amount of \$149,883.50 with Mead & Hunt, Inc., of Madison, Wisconsin, for construction administration of the Airport Perimeter Wildlife Fence (AP1202), contingent on FAA funding.

CONSENT AGENDA (CONTINUED)

* **GRANT AGREEMENT – AIRPORT PERIMETER WILDLIFE FENCE (AP1202, CIP #AP003P)**

Ron Fehr, City Manager, responded to questions from the Commission and provided clarification on the grant award and the City's share of the costs.

The Commission accepted the federal Grant Offer (AIP 3-20-0052-45) from FAA in the amount of \$876,905.00 for the Airport Perimeter Wildlife Fence (AP1202).

BOARD APPOINTMENTS – PARKS AND RECREATION ADVISORY BOARD

The Commission approved the following appointments by Mayor Matta to the Parks and Recreation Advisory Board.

Appointment of Aaron Estabrook, 3317 Woodduck Way, to fill the unexpired USD 383 Board of Education term of Curt Herrman. Mr. Estabrook's term begins immediately, and will expire June 30, 2015.

Appointment of Marcia Rozell, 2500 Marion Avenue, to a four-year USD 383 Board of Education term. Ms. Rozell's term begins immediately, and will expire June 30, 2017.

After discussion and comments from the Commission, Commissioner Jankovich moved to approve the consent agenda. Commissioner Butler seconded the motion. On a roll call vote, motion carried 5-0, with the exception of Item D, ORDINANCE NOs. 7018-7027 – ADOPT – 2012 INTERNATIONAL CODES AND 2011 NATIONAL ELECTRICAL CODE and CONTRACTORS LICENSING AND DEMOLITION OF STRUCTURES, which carried 4-1, with Mayor Matta voting against the item.

GENERAL AGENDA

PUBLIC HEARING – ADOPT - 2014 BUDGET

Bernie Hayen, Director of Finance, presented the item and provided an overview of the 2014 City Budget, including an overview of the Bond and Interest Fund, Enterprise Funds, General Funds, and Special Revenue Funds; a review of budget reductions and funding changes; an overview of changes to the proposed City mill levy; an overview of property taxes for outside agencies and for City services; an overview of the City Enterprise Funds including the Water Fund, Wastewater Fund, and the Stormwater Fund; a review of items

GENERAL AGENDA (CONTINUED)

PUBLIC HEARING – ADOPT - 2014 BUDGET (CONTINUED)

to be discussed before approving the 2014 City Budget; and an overview of proposed actions for the City Commission to consider. He then responded to questions from the Commission regarding water revenues and water use compared to last year. He stated that second reading for these items would be held at the Tuesday, August 20, 2013, City Commission meeting.

Mayor Matta opened the public hearing.

John Pence, 2361 Grandview Terrace, asked questions regarding the proposed 2014 Budget increases and expenditures. He asked if the document published in *The Manhattan Mercury* was correct and voiced concerns with the proposed General Fund Budget increases.

Bernie Hayen, Director of Finance, stated that what was published in the newspaper was correct.

Ron Fehr, City Manager, responded to questions about the 2014 Budget and budget documents available on the City's website. He informed Mr. Pence that the City is required to have a balanced budget and responded to additional questions regarding items increased in the City's 2014 Budget.

John Pence, 2361 Grandview Terrace, asked about employee salaries and what type of raises are proposed for employees. He also voiced concern in the calculation of minimum water and sewer rates for individuals living in one and two bedroom units. He asked that the current ordinance regarding water and sewer rates be examined.

Ron Fehr, City Manager, provided additional information on the 2014 Budget and increases for a 1.7% Cost of Living Adjustment and up to 2% merit pool budgeted for City employees. He informed Mr. Pence that City staff are looking at alternatives for the winter quarter average and will be bringing the item to the City Commission.

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

FIRST READING – ADOPT - 2014 BUDGET

Commissioner Butler stated that he has always been concerned with the General Fund and wanted to discuss the Manhattan Arts Center and Wolf House as well as several other items. He requested that each item be discussed and voted on separately in order to dedicate additional funds to road improvements.

GENERAL AGENDA (CONTINUED)

FIRST READING – ADOPT - 2014 BUDGET (CONTINUED)

After discussion and comments from the Commission, Ron Fehr, City Manager, provided alternatives for the Commission to consider in addressing individual items or amendments for discussion and for a vote by the Commission.

After further discussion of the Commission, Ron Fehr, City Manager, responded to questions from the Commission and provided clarification on the process to address amendments to the proposed motion. He provided clarification and information on the Convention and Visitors Bureau (CVB) Funds dedicated to the Flint Hills Discovery Center and the Charter Ordinance governing the funds.

After discussion and comments from the Commission, Mayor Matta stated that he would support Commissioner Butler's position from the standpoint that the City has a high priority for road maintenance and needs to free up funds for neglected roads. He stated that he would support funding the Manhattan Arts Center and Wolf House Museum from the Convention and Visitors Bureau (CVB) Funds through the bed tax which brings in visitors. However, he stated that this does not mean that it does not fit in the definition or have made the determination that it does not qualify for economic development funds.

After discussion, Commissioner Butler moved to fund the Manhattan Arts Center (MAC) at \$43,700.00 and the Wolf House Museum at \$5,000.00 from the Convention and Visitors Bureau's (CVB) Fund. Commissioner Matta seconded the motion.

Lyle Butler, President, Manhattan Area Chamber of Commerce, provided information on the Convention and Visitors Bureau's (CVB) focus to put heads in beds and marketing efforts that attract people to Manhattan from outside of our market. He presented historical information on the CVB and the need for marketing dollars. He informed the Commission that he looked forward to an extended discussion about the purpose of CVB and use of future funds.

After additional discussion and comments from the Commission, Commissioner Butler called for the question. Mayor Matta seconded the motion. On a roll call vote, motion carried 5-0.

On a roll call vote, the initial motion to fund the Manhattan Arts Center (MAC) at \$43,700.00 and the Wolf House Museum at \$5,000.00 from the Convention and Visitors Bureau's (CVB) Fund failed 2-3, with Commissioners McCulloh, Reddi, and Jankovich voting against the motion.

Commissioner Butler moved to fund the Manhattan Arts Center at \$43,700.00 and the Wolf House Museum at \$5,000.00 from the Economic Development Fund in order to get these items out of the General Fund. Commissioner Jankovich seconded the motion.

GENERAL AGENDA (CONTINUED)

FIRST READING – ADOPT - 2014 BUDGET (CONTINUED)

After comments from the Commission, on a roll call vote, motion carried 4-1, with Commissioner Reddi voting against the motion.

Ron Fehr, City Manager, responded to questions from the Commission regarding the pumper truck and clarified this would replace a unit in the Capital Improvements Program.

Scott French, Director of Fire Services, provided additional information on the pumper truck and stated that it would serve as a reserve apparatus. He responded to questions from the Commission and elaborated on the fire trucks, discussed the response times and benefits with the new fifth fire station, and provided information on the proposed Training Officer position. He stated that the Training Officer position would be a priority over the pumper truck at this time.

After additional discussion on the item and comments from the Commission, Commissioner Butler stated that since the reserve pumper truck is not vital, moved to eliminate the pumper truck and remove the Training Officer position from this year's budget in order to save about \$81,000.00 which could be re-allocated to roads. Mayor Matta seconded the motion.

Ron Fehr, City Manager, clarified that the City has added an additional fifth fire station and added a full complement of line personnel without adding administration. He stated that as the Fire Department grows, there is a need to add back the Training Officer position.

After discussion and comments from the Commission, on a roll call vote, motion failed 2-3, with Commissioners McCulloh, Reddi, and Jankovich voting against the motion.

After comments from the Commission regarding funding social service agencies, Commissioner Butler moved to increase the funding of the social service agencies to an amount of 1.7% increase above the 2013 funding levels. Mayor Matta seconded the motion.

Ron Fehr, City Manager, responded to questions from the Commission on the funding levels received from the State of Kansas for road maintenance. He explained the challenge in keeping up with street maintenance issues due to increased costs and funding levels.

GENERAL AGENDA (CONTINUED)

FIRST READING – ADOPT - 2014 BUDGET (CONTINUED)

After comments and discussion of the Commission regarding funding levels for social service agencies, Sarah Blair, Vice Chair, Social Services Advisory Board (SSAB), and Andrew Rickel, Chair, Social Services Advisory Board, provided additional information on SSAB and responded to questions from the Commission related to the agency recommended funding levels, agency evaluations and contracts, and the challenges in meeting the needs of a growing community. They responded to questions from the Commission and informed the Commission that SSAB unanimously recommended the proposed funding allocations for the social service agencies.

After additional discussion and comments from the Commission, on a roll call vote, the motion to increase the funding of the social service agencies to an amount of 1.7% increase above the 2013 funding levels failed 2-3, with Commissioners McCulloh, Reddi and Jankovich voting against the motion.

The Commission discussed the funds available in the water bill donation program for social services and the collections to be provided to SSAB to deliberate and make funding recommendations for the use of these additional donation funds.

Ron Fehr, City Manager, informed the Commission that the fund amount would be determined at year-end and could carry forward that amount to the next budget year for SSAB.

Sarah Blair, Vice Chair, Social Services Advisory Board, informed the Commission that the Board was waiting for their direction when the utility donation funds would be available to cover additional needs and stated that it was up to the Commission.

Commissioner Butler moved to reduce funding for the Flint Hills ATA Bus to a 1.7% increase over last year's budget for On Demand Service. Mayor Matta seconded the motion.

After clarification of the motion, on a roll call vote, the motion carried 3-2, with Commissioners McCulloh and Reddi voting against the motion.

Ron Fehr, City Manager, responded to questions from the Commission regarding the City/University Fund. He provided clarification of the current process used to identify specific projects that are recommended for funding.

GENERAL AGENDA (CONTINUED)

FIRST READING – ADOPT - 2014 BUDGET (CONTINUED)

After further discussion and comments from the Commission, there was a consensus to leave the funding requests as recommended for 2013 City/University Fund. However, the Commission agreed to address the City/University Fund and discuss projects identified for 2014 and future years in order to ensure the projects are beneficial to both the City of Manhattan and Kansas State University during a future work session.

Ron Fehr, City Manager, provided additional information on projects identified for the City/University Fund and the process. He then responded to questions from the Commission and recommended that the Commission make a separate motion to indicate that the General Fund savings from the re-allocation of funds for Manhattan Arts Center and Wolf House and for the savings as a result of the action item for Flint Hills ATA Bus funding reduction be transferred to street maintenance.

After additional comments from the Commission, Commissioner Jankovich moved to approve the use of the savings from the General Fund through the shifting to other funds for the items approved, specifically, to roads through the General Fund. Commissioner Butler seconded. On a roll call vote, motion carried 5-0.

Ron Fehr, City Manager, responded to additional questions from the Commission and provided clarification on the remaining items related to the adoption of the 2014 City Budget.

After additional discussion and comments from the Commission, Commissioner Jankovich moved to approve first reading of the 2014 City Budget Ordinance as amended, to include related 2014 City Budget items 1c [*made a determination that the Economic Development Fund expenditures proposed in the budget are an economic development initiative*], 2a [*approved first reading of an ordinance increasing the stormwater rate*], 2b [*approved first reading of an ordinance increasing the wastewater rate*], and 2c [*approved Resolution No. 080613-A increasing recreation facility rental fees and first reading of an ordinance increasing cemetery fees and charges*]. Commissioner McCulloh seconded the motion.

On a roll call vote, motion carried 5-0.

At 9:10 p.m., the City Commission took a brief recess.

FIRST READING – REZONE - 1021 AND 1027 THURSTON STREET

Eric Cattell, Assistant Director for Planning, presented an overview of the item. He then responded to questions from the Commission regarding the requested rezoning, factors that were considered in creating the M-FRO, and how much time it would take to update the Comprehensive Plan.

GENERAL AGENDA (CONTINUED)

FIRST READING – REZONE - 1021 AND 1027 THURSTON STREET (CONTINUED)

Dale Houdeshell, Director of Public Works, responded to questions from the Commission and stated that there were no particular sewer problems in this area and that a further study would be needed with the new Campus Master Plan.

John Musselman, Owner, 3032 Conrow Drive, thanked the Commission for their public service and provided background information regarding the current conditions of the properties and on the rezoning request. He highlighted the benefits of rezoning these properties and asked the Commission to support the request.

Wayne Sloan, 1044 Brianna Court, President, BHS Construction, informed the Commission on the importance of construction projects for local firms. He questioned if this request could wait two years for the Comprehensive Plan to be finished. He stated that the majority of homes in that particular area are not owner-occupied and encouraged the Commission to consider this rezoning.

Linda Weis, 215 Pine Drive, asked the Commission to consider the full discussion of the Manhattan Urban Area Planning Board meeting and stated that the item for the rezoning denial was a 4-3 vote. She provided additional information on the condition of the properties and stated that the current house is not only vacant, but has critters and creatures living in it. She stated that the character of the neighborhood is appropriate for the rezoning request and believed that in this case, the rezoning was a wise decision. She asked the Commission to support the rezoning and appreciated their time and help.

John Pence, 2361 Grandview Terrace, property owner of 1030 Thurston Street, voiced opposition to the rezoning on the standpoint of spot zoning and provided additional information on the neighborhood. He stated that it was unexplainable to him why it would take up to 18 to 24 months to update the Comprehensive Plan. He informed the Commission that if rezoned, everyone's property in the area would increase in value. He wanted a guarantee that if this rezoning is approved, that the Commission consider rezoning more than one owner's property in order to allow other property owners to create more profitable properties with equal zoning. He then responded to questions from the Commission.

Clint Junghans, Applicant, 5838 Davis Creek Road, Junction City, informed the Commission that the community wants services, the City and County needs tax revenue, students need housing, and the campus is growing. He asked the Commission to strongly consider the rezoning.

GENERAL AGENDA (CONTINUED)

FIRST READING – REZONE - 1021 AND 1027 THURSTON STREET (CONTINUED)

John Pence, 2361 Grandview Terrace, property owner of 1030 Thurston Street, stated that this is a valuable decision for a person that owns property. He also voiced concern with the notice procedures for the rezoning. He asked why the City's Code Department sends expensive registered mailings for tall grass nuisances. He requested that the City look at their rules and regulations regarding sending expensive registered letters if they are worried about their budget.

Ron Fehr, City Manager, provided information on the legal notice requirements and notification signage that is placed on properties being considered for rezoning. He also discussed the notification process for rezoning items before the Manhattan Urban Area Planning Board.

Eric Cattell, Assistant Director for Planning, informed the Commission that they have instituted mandatory neighborhood meetings by the applicants and also pushes out information through the City's electronic InTouch notification system. He provided additional information on the statutory notification requirements and process required.

Linda Weis, 215 Pine Drive, stated that proper notice was given and a neighborhood meeting was held.

After discussion and comments from the Commission, Ron Fehr, City Manager, responded to questions from the Commission. He stated that if the Commission desires to have the Planning Board revisit the item, it could request that they look at a larger area than what is being proposed for rezoning.

Eric Cattell, Assistant Director for Planning, provided additional information and options related to the rezoning process. He then responded to questions from the Commission regarding how long it would take to rezone the area. He informed the Commission that the Comprehensive Plan update will take 18 to 24 months.

John Pence, 2361 Grandview Terrace, asked further questions about the rezoning process and stated that two years is too long to wait for an update to the Comprehensive Plan for this area.

Dale Houdeshell, Director of Public Works, responded to questions on the sewer capacity in the area of the proposed rezoning and for Bertrand and Thurston Streets.

Ron Fehr, City Manager, and Eric Cattell, Assistant Director for Planning, responded to questions and provided additional options on the item and clarification of the rezoning process.

GENERAL AGENDA (CONTINUED)

FIRST READING – REZONE - 1021 AND 1027 THURSTON STREET (CONTINUED)

Linda Weis, 215 Pine Drive, informed the Commission that she was not aware of anyone owning more than one lot in the block, but would volunteer in any way she could to follow-up and contact out-of-town landowners to get their support.

After discussion and comments from the Commission, Commissioner Jankovich moved to approve first reading of an ordinance rezoning 1021 and 1027 Thurston Street from R-2/TNO, Two-Family Residential District with TNO, Traditional Neighborhood Overlay District, to R-3/M-FRO, Multiple Family District with Multi-Family Redevelopment Overlay District, based on the Commission's analysis. (*Staff Report is attached as Attachment No. 1.*) Commissioner Butler seconded the motion. On a roll call vote, motion carried 4-1, with Commissioner Reddi voting against the motion.

After additional discussion, Commissioner Jankovich moved to request the Manhattan Urban Area Planning Board revisit the zoning for the 1000 block of Thurston Street for rezoning to R-3/M-FRO. Commissioner Butler seconded the motion.

Eric Cattell, Assistant Director for Planning, provided clarification on the motion.

Commissioner Reddi stated that she was concerned with setting a precedent on zoning that goes against the Comprehensive Plan.

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

FIRST READING - AMEND PRELIMINARY DEVELOPMENT PLAN - LOTS 4 AND 5, HERITAGE SQUARE SOUTH COMMERCIAL PLANNED UNIT DEVELOPMENT

Eric Cattell, Assistant Director for Planning, presented the item and responded to questions from the Commission regarding the floodplain area.

Tim Schultz, Developer, provided additional information on the proposed amendment and Commercial Planned Unit Development at Heritage Square South. He discussed the pre-development area current conditions and floodplain area. He stated that the building is proposed to be about eight inches higher than the two foot requirement for floodplain elevation compliance.

GENERAL AGENDA (CONTINUED)

FIRST READING - AMEND PRELIMINARY DEVELOPMENT PLAN - LOTS 4 AND 5, HERITAGE SQUARE SOUTH COMMERCIAL PLANNED UNIT DEVELOPMENT (CONTINUED)

After discussion, Commissioner McCulloh moved to consider first reading of an ordinance amending the Preliminary Development Plan of Lots 4 and 5, Heritage Square South Commercial Planned Unit Development and Ordinance No. 6607. (*Staff Report is attached as Attachment No. 2.*) Commissioner Reddi seconded the motion. On a roll call vote, motion carried 5-0.

DISCUSSION - K-18/K-113 INTERCHANGE IMPROVEMENTS STUDY

Peter Clark, Civil Design/Traffic Engineer, introduced the item and provided background information on the K-18/K-113 Interchange Improvements Study.

Chuck Bartlett, Alfred Benesch & Company, and Jim Jussel, Traffic Engineer, Alfred Benesch & Company, presented an overview of the item. Both responded to questions relating to the proposed diverging diamond intersection operation and bicycle and pedestrian considerations. They also provided alternative considerations for the design at Rosencutter Road and Richards Drive.

Rob Ott, City Engineer, discussed options for the K-18/K-113 interchange and informed the Commission that there were 127 different ideas discussed. He provided additional information on the traffic study counts that were completed, safety considerations, and future considerations for the bridge replacement.

Joe Knopp, 104 Oakwood Circle, Manhattan resident, voiced concerns with the diverging diamond intersection proposal and with the additional expense in changing an intersection that was recently designed and constructed. He asked if the current intersection was poorly designed and if this is a safety or a convenience issue. He stated that there are more pressing needs in this community than this project to spend money on and urged the Commission to be cautious before proceeding forward on this project.

Bill Holton, 315 Poliska Lane, asked the Commission to have a left turn lane at Poliska Lane off Fort Riley Boulevard. He asked to not cut off his access from Fort Riley Boulevard and stated the difficulty in trying to go up the hill behind his home in the winter.

Marlene Sedillos, 2410 Justin Drive, informed the Commission that she lives off Poliska Lane and voiced concern with closing off turn lanes to houses and businesses in the area.

GENERAL AGENDA (CONTINUED)

DISCUSSION - K-18/K-113 INTERCHANGE IMPROVEMENTS STUDY (CONTINUED)

Lyle Butler, President, Manhattan Area Chamber of Commerce, informed the Commission that he recently experienced a diverging diamond intersection in Loveland, Colorado, and it does work. He stated there are several diverging diamond intersections in Springfield, Missouri.

After further discussion and comments from the City Commission, Rob Ott, City Engineer, responded to questions from the Commission regarding comments about Poliska Lane and safety considerations, discussed the previous design of the current interchange, highlighted project funding from the Kansas Department of Transportation (KDOT), and discussed the project timeline. He informed the Commission that he would discuss possible options and timing with KDOT, coordinate a project timeline, work on a design contract, and then bring the item back to the City Commission.

As this was a discussion item only, there was no formal action taken on the item.

ADJOURNMENT

At 11:45 p.m., the Commission adjourned.



Gary S. Fees, MMC, City Clerk

STAFF REPORT

APPLICATION: The application is a request to rezone property located at 1021 Thurston Street and 1027 Thurston Street.

FROM: R-2, Two-Family Residential District with TNO, Traditional Neighborhood Overlay District.

TO: R-3/M-FRO, Multiple-Family Residential District with Multi-Family Redevelopment Overlay District.

APPLICANTS: Clint Junghans, Matt Junghans, and Gareth Rohr.

ADDRESS: 420 North Franklin Street, Junction City, KS 66441.

OWNERS: John F. Musselman III IRA (1021 Thurston Street) and John F. Musselman, III, Trust (1027 Thurston Street).

ADDRESS: 3032 Conrow Drive, Manhattan, KS 66503.

LEGAL DESCRIPTION: The legal descriptions of the rezoning site are:

1021 Thurston Street: Lot 584, Ward 3, City of Manhattan, Riley County, Kansas.

1027 Thurston Street: Lot 585, Ward 3, City of Manhattan, Riley County, Kansas.

LOCATION: The rezoning site is located approximately 50 feet east of the intersection of N. 11th Street and Thurston Street along the south side of Thurston Street.

AREA: The total area of the rezoning site is approximately 15,000 square feet in area, having a total dimensioned area of 100 feet in width by 150 feet in depth consisting of:

- Lot 584 is 50 feet in width and 150 feet in depth, or 7,500 square feet in area.
- Lot 585 is 50 feet in width and 150 feet in depth, or 7,500 square feet in area.

DATE OF NEIGHBORHOOD MEETING: April 25, 2013.

DATE OF PUBLIC NOTICE PUBLICATION: Monday, June 24, 2013.

DATE OF PUBLIC HEARING: PLANNING BOARD: Monday, July 15, 2013.
CITY COMMISSION: Tuesday, August 6, 2013.

THIRTEEN MATTERS TO BE CONSIDERED WHEN REZONING

1. EXISTING USE (Note: Existing use information was obtained from the Riley County GIS web page):

The existing use of 1021 Thurston Street is a 1½ story full basement, four bedroom, two baths, single-family bungalow style dwelling unit structure constructed in 1922 and converted to two dwelling units.

The existing use of 1027 Thurston Street is a 1½ story full basement, five bedroom, two baths, single-family bungalow style dwelling unit structure constructed in 1925 and is used as a single-family dwelling.

2. PHYSICAL AND ENVIRONMENTAL CHARACTERISTICS: The rezoning site is generally flat with existing residential structures, open yards, and mature trees. The site drains to the alley or street.

Off-street parking for 1021 Thurston Street is accessed from a driveway on the east side of the structure leading to a detached garage from a curb cut on Thurston Street. Off-street parking is also accessed off the alley.

Off-street parking for 1027 Thurston Street is accessed from a curb-cut and driveway on the east side of the structure leading to a detached garage. Off-street parking is also accessed off the alley.

3. SURROUNDING LAND USE AND ZONING:

NORTH: Thurston Street, single-family and two-family dwelling units, and one twelve dwelling unit apartment building, Bertrand Street, single-family and two-family dwelling units, one three-family residential dwelling unit; R-2/TNO Districts.

SOUTH: Public alley, newly constructed multiple-family apartment building, mix of single-family, two-family, a three-family, and a newly constructed twelve dwelling unit apartment building, Kearney Street, apartment buildings, and a mix of single-family and two-family dwelling units; R-3/M-FRO Districts.

EAST: Single and two-family dwelling units, N. 10th Street; R-2/TNO Districts, and R-1, Single-Family Residential District with TNO, Traditional Neighborhood Overlay District.

WEST: Single-family, two-family, multiple-family dwelling units, including newer apartment buildings; R-3/M-FRO Districts.

4. GENERAL NEIGHBORHOOD CHARACTER: The rezoning site is within a larger R-2/TNO Districts to the north, east and west of the rezoning site (see **OTHER APPLICABLE FACTORS**). The larger area is bounded on the south by a public alley, the majority of which is gravel; N. 10th Street on the east; N. 11th Street on the west; and, Ratone Street on the north. Within this larger area, the neighborhood is largely single-family and two-family dwelling units, with one three-family dwelling unit conversion, and one twelve dwelling unit apartment building. This larger area is part of the older well-established grid street patterned neighborhoods of the community. The front yards of most residences are maintained as landscaped green space along tree lined streets, with parking areas generally located in the rear yard with access off the alley. Many of the residential structures are located closer to the front property line compared to homes in newer residential subdivisions.

The general neighborhood to the south and west is a mixture of developing multiple-family new construction, older single-family, two-family, multiple-family conversions, and multiple-family apartment buildings.

The general neighborhood to the east of N. 10th Street is a combination of single-family and two-family dwellings.

5. SUITABILITY OF SITE FOR USES UNDER CURRENT ZONING: The rezoning site consists of two 7,500 square foot lots, which individually, conform to the minimum lot size requirements for one single-family dwelling unit or one two-family dwelling unit. Both lots are suitable for the uses under the current R-2/TNO Districts.

6. COMPATIBILITY OF PROPOSED DISTRICT WITH NEARBY PROPERTIES AND EXTENT TO WHICH IT MAY HAVE DETRIMENTAL AFFECTS: The proposed rezoning is not compatible with the existing larger R-2/TNO Districts' area, which consists primarily of single-family and two-family dwelling units. Expanding the R-3/M-FRO Districts, as proposed, will increase traffic, light and noise, and may encourage additional individual rezoning changes either abutting the R-2/TNO Districts or along any boundary of the R-3/M-FRO Districts.

The R-3/M-FRO Districts consist of more than 20 blocks in which there are single-family, two-family, older smaller multiple-family conversions, and new apartment buildings. There is no evidence presented by the applicants that development in the M-FRO is at or near build-out. Building sites are available in the R-3/M-FRO Districts. Before extending the R-3/M-FRO Districts, the existing R-3/M-FRO Districts should be developed and nearby neighborhoods should be reevaluated. The TNO District was added to the existing

R-2 District in which the rezoning site is located to protect the character of the single-family and two-family neighborhood.

To determine compatibility as well as expansion of the R-3/M-FRO Districts, a rezoning decision should be based on a broader analysis on the neighborhood rather than an incremental basis. An update of the Comprehensive Plan will occur over the next two years and a review of the neighborhoods in the surrounding area should be part of the Plan update.

7. CONFORMANCE WITH COMPREHENSIVE PLAN: The Downtown Core Neighborhoods Future Land Use Map of the Comprehensive Plan shows the rezoning site as RLM, Residential Low to Medium density. The RLM designation is a residential category with a density range of less than one dwelling unit/acre up to eleven dwelling units per net acre. The proposed R-3 District is a high-density designation. The RHD designation is a residential category with a density range of 19 or more dwelling units/acre. Policies of the RLM and RHD categories are below with policy statements italicized.

Residential Low to Medium (RLM) policies:

RLM 1: Characteristics

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

RLM 2: Appropriate Density Range

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

RLM 3: Location

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

RLM 4: Variety of Housing Styles

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

Residential High Density (RHD) policies include:

RHD 1: Characteristics

The Residential High Density designation is designed to create opportunities for higher density neighborhoods in both an urban downtown setting and a suburban setting. Within an urban or downtown setting, the designation accommodates higher-intensity residential housing products, such as mid to high-rise apartments, townhomes and condominiums, combined with complementary non-residential land uses, such as retail, service commercial, and office uses, often within the same building. In other areas of the community, Residential High Density neighborhoods can be accommodated in a less vertical or urban fashion, such as in planned apartment communities with complimentary neighborhood service commercial, office and recreational facilities. These neighborhoods could be implemented through a Planned Unit Development or by following design and site plan standards (design review process).

RHD 2: Appropriate Density Range

Possible densities under this designation are 19 dwelling units per net acre and greater.

RHD 3: Location

Residential High Density uses are typically located near intersections of arterials and collector streets, sometimes providing a transition between commercial or employment centers and lower density neighborhoods. High-density neighborhoods should not be located in settings where the only access provided consists of local streets passing through lower density neighborhoods. In a more urban or downtown setting, residential high density may be combined with active non-residential uses in a vertically mixed-use building.

RHD 4: Building Massing and Form

Plain, monolithic structures shall be avoided. Infill projects should be compatible with the established mass and scale of other buildings along the block. In a planned apartment community context, large buildings shall be designed with a variety of wall planes and roof forms to create visual interest.

RHD 5: Mix of Uses

Non-residential uses should generally not exceed 25% of the total floor area in a mixed-use structure.

RHD 6: Parking Location and Design

Within an established urban neighborhood, such as the downtown core, adequate off-street parking should be located behind buildings or within mixed-use parking structures.

RHD 7: Structured Parking

Structured parking garages, often necessary for this type of development intensity, should be designed with a similar level of architectural detail as the main building. Incorporating active uses, such as retail spaces, into the ground floor is strongly encouraged, particularly in downtown settings.

The existing rezoning site has a density of approximately 11 dwelling units per acre, which is based on two-dwelling units for each 7,500 square feet of lot area (7,500 square feet (sf)/43,560 sf/acre = 0.172 acres; 2 dwelling units/0.172 acres = **11.6 dwelling units per acre**. The proposed rezoning to R-3/M-FRO results in a density of approximately 15,000 sf/43,560 sf/acre = 0.344 acres; 12 dwelling units/0.344 acres = **34.8 dwelling units per acre**, based on the applicant's intent to build a twelve dwelling unit family apartment building (*application documents*). Based on the minimum lot area per unit in R-3 District, and reduced setbacks and parking requirements of the M-FRO district, a 15 dwelling unit apartment building is a possibility, which results in a density of **43.6 dwelling units per acre**.

The proposed rezoning of 1021 Thurston Street and 1027 Thurston Street to R-3/M-FRO Districts does not conform to the Comprehensive Plan.

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

1925:	A, First Dwelling House: One and Two Family Dwellings
1937 - 1965:	A, First Dwelling House: One and Two Family Dwellings B, Second Dwelling House: One and Two Family Dwellings, Apartment Houses
1969 - 1987:	R-2, Two-Family Residential District R-3, Multiple-Family Residential District
1987 - 2004:	R-2, Two-Family Residential District
February 19, 2004	Manhattan Urban Area Planning Board holds public hearings to consider Phase 3 rezonings of Sub Areas A, B, C and D, and recommends approval, on vote of 6-0.

Attachment No. 1

March 16, 2004 City Commission, on a vote of 5-0, approves, first reading of an ordinance rezoning the Phase 3 Sub Areas A, B, C and D, as recommended by City Administration and the Planning Board.

April 6, 2004 City Commission approves Ordinance Nos. 6392, 6393, 6394 and 6395 rezoning the Phase 3 Sub Areas A, B, C and D, as recommended by City Administration and the Planning Board.

The house at 1021 Thurston Street was built in 1922 and the house at 1027 Thurston Street was built in 1925.

Note: The entire chronology for the TNO and M-FRO studies and implementation is attached for reference and to represent the time and community effort to establish zoning districts in the older neighborhoods.

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.

Existing R-2 with TNO Districts (1021 Thurston Street and 1027 Thurston Street)

The R-2, Two-Family Residential District is designed to provide a dwelling zone at a density no greater than two (2) attached dwelling units per 7,500 square feet.

The TNO District is intended to conserve the traditional character of the older neighborhoods through Compatibility Standards. The Compatibility Standards require that new infill residential buildings, and additions or modifications to existing residential buildings, incorporate basic design and site layout elements characteristic of homes in the traditional neighborhoods. The TNO is used in conjunction with an underlying residential district.

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

Proposed R-3 with M-FRO Districts (1021 Thurston Street and 1027 Thurston Street)

The proposed R-3 District is designed to provide for multiple-family development at a density no greater than one (1) dwelling unit per 1,000 square feet.

The Multi-Family Redevelopment Overlay (M-FRO) is designed to ensure that multiple-family infill development is functionally integrated into surrounding areas and compatible with the traditional character of the older neighborhoods of Manhattan. The intent is to provide a framework within which higher density housing can be built, while being sensitive to surrounding neighborhoods and the public streetscape with regard to design and site layout. The M-FRO is used in conjunction with the underlying R-3, Multiple-Family Residential District.

The proposed rezoning would not be consistent with the intent and purposes of the Zoning Regulations because the rezoning is not consistent with the Comprehensive Plan's recommendation that the rezoning site be zoned to allow residential low to medium density, which the current R-2/TNO Districts reflect. The TNO District was added to the existing R-2 District in which the rezoning site is located to protect the character of the single-family and two-family neighborhood. The proposed R-3/M-FRO Districts would implement a zone which would increase density, which the Comprehensive Plan does not recommend. The proposed rezoning of the also changes the character of the broader R-2/TNO Districts' neighborhood in which single-family and two-family dwelling units were intended to be protected from intensification and larger structures.

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: Denial does not appear to be a hardship upon the applicant. The rezoning to R-3/M-FRO District will result in an increase in intensity north of the unpaved alley and encourage further rezoning to higher density and added traffic on congested public streets in the neighborhood.

11. ADEQUACY OF PUBLIC FACILITIES AND SERVICES: Adequate public streets, water, and public sidewalks serve the rezoning site. Adequacy of sanitary sewer should be confirmed with a capacity analysis. As a part of the upcoming Comprehensive Plan update, expansion of the R-3/M-FRO Districts should be accompanied by additional analysis of sanitary sewer capacity. The 15 foot wide alley serving the rezoning site is largely an unimproved gravel and dirt surface, with the western 100 feet recently paved with a new concrete surface adjacent to a new apartment building on Kearney Street.

12. OTHER APPLICABLE FACTORS:

In 2004, the rezoning site was part of a larger tract of land described as Phase 3, Sub Area C, Tract 1 (*map attached*), which consisted of 38 total zoning lots generally bounded on the east by N. 10th Street, on the south by the alley south of Thurston Street, on the west by N. 11th Street, and on the north by Ratone Street. The rezoning site is at the southern edge of the area that was shown as Sub Area C, Tract 1.

Over a two to three year period a community process determined areas appropriate for up-zoning to R-3 (to the south and west of the proposed rezoning site) and which areas were appropriate to remain zoned with either the TNO or M-FRO Districts added to the underlying zone. (*A January 22, 2004 Cover memorandum for Phase 3 is attached for reference and background.*)

Changes in Single-Family Characteristics Neighborhood Study Updates

The general neighborhood trends between 2000 and 2010 with **respect to the rezoning site** are unchanged (Note: A lower index score, in parentheses means that an area has fewer families and has become more rental in nature.) Population density (1) is unchanged, based on 17-24 persons/acre; number of housing units per block, 33-62 units per block, is unchanged; number of children (0), with a range of 0-3 per block, is unchanged; number of family households (0), in a range of 0-5 per block, is unchanged; number of owner occupied housing units (0) with a range of 0-4 owner occupied is unchanged; and, the neighborhood index (0) with a composite range of 0-2 is unchanged.

13. STAFF COMMENTS: The proposed rezoning site and surrounding neighborhood's characteristics were carefully analyzed, and, after extensive public collaboration over a period of several years, the rezoning site and R-2 District in which it is located remained R-2 District, except for the addition of the TNO District. It may be appropriate to rezone the site, but it should be considered in a larger neighborhood setting than as a piecemeal change. The update to the Comprehensive Plan will allow the area to be reconsidered for an increase in density, as well as a capacity for public services.

City Administration recommends denial of the proposed rezoning of 1021 Thurston Street and 1027 Thurston Street from R-2, Two-Family Residential District with TNO, Traditional Neighborhood Overlay District, to R-3/M-FRO, Multiple-Family Residential District with Multi-Family Redevelopment Overlay District, based on the findings in the Staff Report.

As a reminder, if the Planning Board is inclined to recommend approval of the rezoning, the Board will need to clearly express the reasons for recommending approval and make findings with respect to the rezoning standards.

ALTERNATIVES:

1. Recommend approval of the proposed rezoning of 1021 Thurston Street and 1027 Thurston Street from R-2, Two-Family Residential District with TNO, Traditional Neighborhood Overlay District, to R-3/M-FRO, Multiple-Family Residential District with Multi-Family Redevelopment Overlay District, stating the basis for such recommendation.
2. Recommend denial of the proposed rezoning, stating the specific reasons for denial.
3. Table the proposed rezoning to a specific date, for specifically stated reasons.

POSSIBLE MOTION:

The Manhattan Urban Area Planning Board recommends denial of the proposed rezoning of 1021 Thurston Street and 1027 Thurston Street from R-2, Two-Family Residential District with TNO, Traditional Neighborhood Overlay District, to R-3/M-FRO, Multiple-Family Residential District with Multi-Family Redevelopment Overlay District, based on the findings in the Staff Report.

PREPARED BY: Steve Zilkie, AICP, Senior Planner.

DATE: July 10, 2013.

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 Lot 4 and Lot 5, Heritage Square South Commercial Planned Unit Development. 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.”
- In addition, the applicant has proposed a pole sign on Lot 4. Condition 7 states, “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.”

APPLICANT: Leiszler Real Estate – Alison Leiszler Bridges.

ADDRESS: 635 W. Crawford, Clay Center, KS 67432.

OWNER: Heritage Square Land Co. LLC – Tim Schultz.

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

LEGAL DESCRIPTION: Lot 4 and Lot 5, Heritage Square South P.U.D., a Commercial Planned Unit Development, an addition of the City of Manhattan, Pottawatomie County, Kansas..

LOCATION: Lot 4 and lot 5 are generally located southwest of the intersection of South Port Drive and U.S.-24 Highway, approximately 3,600 feet east of Manhattan’s city limits.

AREA: Lot 4: 48,101 square feet (1.104 acres).
Lot 5: 50,156 square feet (1.151 acres).

DATE OF NEIGHBORHOOD MEETING: April 16, 2013.

DATE OF PUBLIC NOTICE PUBLICATION: Monday, June 24, 2013.

DATE OF PUBLIC HEARING: PLANNING BOARD: Monday, July 1, 2013.
CITY COMMISSION: Tuesday, August 6, 2013.

EXISTING PUD:

EXISTING PUD AFFECTING LOT 4 AND 5

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.

Attachment No. 2

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.

Existing Development

The PUD consists of Lot 1(Fastenal); Lot 2 (Dollar General); Lot 3 (Aaron's Furniture); Lot 6 (Tractor Supply Co.); Lots 7 and 8 (Midway Wholesale); Lot 9 (Heritage Commons, a multiple-tenant commercial building currently occupied by a state government agency, liquor store, and restaurant, with the balance of the building vacant); and, Lot 10, a vacant approximate 12 acre tract of land.

PROPOSED AMENDMENT

PUD AMENDMENT AND PROPOSED IMPROVEMNTS ON LOTS 4 AND 5

Building and Other Structures

Lot 4 – The proposed structure and use on Lot 4 is a one story approximate 22-25 foot tall tan and dark tan stucco and stone veneer commercial building for a Short Stop convenience store and future retail or service commercial space, such as a restaurant. A metal awning is over the store front windows and doors. Patio area is on the southwest side of the building. Building coverage is approximately 7,268 square feet of lot coverage. The Short Stop has a drive thru window on the north side of the store. Three gas pump islands and six gas pumps are proposed on the east side of Lot 4. The gas canopy covering the gas pump islands is an approximate 17.5 foot tall structure constructed of steel post supports and awning owning over the gas pump islands. A pole sign is proposed generally to the north side of the building.

Attachment No. 2

Lot 5 – The proposed structure and use on Lot 5 is a one story approximate 19 foot tall tan and dark tan stucco and stone veneer one lane automatic car wash bay with a floor area of approximately 2,576 square feet and six vacuum bays on the west side of the automatic car wash.

Two screened trash enclosures are proposed, both on Lot 5 and are described below.

Signs

A range of internally illuminated pole, ground and wall signs are proposed to identify the Short Stop, future commercial space and car wash. (See attached sheets from JS Sign for details on proposed signage. Signs on architectural sheets are not the proposed signage.)

Condition No. 7 – Proposed Pole Sign

The PUD is generally a C-5 District, and pole signs are allowed. For comparison purposes, the proposed pole sign is 30 feet in height and in a landscape base, as required for ground or pole signs in the PUD, and less than the maximum height in the C-5 District, which is 50 feet. Square footage of sign area is 244 square feet, 124 square feet in area greater than Condition No. 7, with aluminum covers over supporting poles, rather than stone, stucco or similar building material cover over support poles (Condition No. 7). Square footage of total sign area along Lot 4's US 24 Highway frontage could be a maximum of 800 square feet of sign area. The sign is setback 30 feet versus the building setback of 50 feet. The lowest part of the sign is 8 feet 6 inches above grade. If the lowest part of the sign was less than six feet it would be considered a ground sign, based on the Manhattan Zoning Regulations. In this instance, the differences are marginal between the limitations of Condition No. 7 and what would be allowed in a service commercial zone, such as C-5 District. The commercial messages on the signs are standard formats for convenience stores with gas pumps.

Note: There is an existing identification sign in the western part of Lot 5 that was constructed as a part of the Heritage Square PUD and is not included with the amendment.

Lighting

All exterior lighting fixtures are downcast and will consist of building wall packs, and parking lot lights on 25foot tall poles.

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 Preliminary PUD shows a commercial building footprint (approximately 5,500 square feet of floor/lot area) and parking. Lot 4 with gas canopy and gas pumps on the east side of the site, but no other information was provided with the initial rezoning such as architectural, signage and other required information. The building on Lot 5 (approximately 9,880 square feet of building/lot area), and parking on the south and west sides of the building, was the only information shown on the Preliminary PUD. Very minimal landscaping was shown for both lots. The proposed amendment will promote the efficient development of the site, and PUD, by allowing construction of retail uses and signage 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. 7 and No. 11, Ordinance No. 6607, which requires an amendment of the PUD prior to issuance of any permits for development, and limitation on the number of pole signs. The PUD has been amended three times in 2013, which includes the current application, with only one lot remaining to be developed.

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 tract of land. The amendment is necessary because of two conditions of the approval of the Ordinance creating 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

1. LANDSCAPING: Landscaping consists of ornamental trees, shrubs and flowering plants, grasses and lawn areas, which will be maintained with underground irrigation.

2. SCREENING: A six foot tall split block trash container enclosure is located behind the Short Stop building, but on Lot 5, for the uses on Lot 4. A second six foot tall split block trash container enclosure is on Lot 5 near the vacuum bay area for the car wash.

To insure the trash enclosures are available for the proposed uses on Lots 4 and 5, a condition of approval is that trash containers shall be shared between Lots 4 and 5.

3. DRAINAGE: The site will drain to the north to an open swale and storm inlets, connecting under the highway and northern undeveloped area to the Big Blue River. A dedicated drainage easement between Lots 4 and 5 was vacated and dedicated as a utility easement in order to allow the parking lot surfacing, which would not be otherwise be allowed in the drainage easement.

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. Lot 4 is accessed from a curb cut off the entrance street and along the South Port Road. A second curb cut on Lot 5 off South Port Road allows access to Lots 4 and 5. Lot 5 is also accessed from a curb cut on South Port Drive.

Public Access. Pedestrians are, or will be, accommodated by sidewalks that will be constructed throughout the development located along one side of all streets as the area develops.

With Lots 4 and 5, a public sidewalk will be constructed in South Port Drive right-of-way to the south of both lots, with a pedestrian connection from the public sidewalk to an internal pedestrian sidewalk in front of the Short Stop building.

Traffic. A Traffic Report was submitted and accepted by the City Engineer in 2006. 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 two (22) off-street parking spaces are proposed on Lot 4, and 15 parking spaces are proposed on Lot 5, a total of 37 off-street parking spaces. For the combined uses on Lot 4, 21 parking spaces are required. The car wash requires four off-street parking spaces, and 15 are provided, which includes shared parking between Lots 4 and 5. **To insure the shared condition is maintained, a condition of approval requiring shared parking between Lots 4 and 5 is proposed.**

5. OPEN SPACE/LANDSCAPED AND COMMON AREA: Landscaping and lawn areas set aside on Lots 4 and 5. Common use facilities include the trash enclosures and shared parking.

6. CHARACTER OF THE NEIGHBORHOOD: The neighborhood is generally characterized as a major highway service commercial street corridor with retail uses near, and along both sides, of US 24 Highway.

MATTERS TO BE CONSIDERED WHEN REZONING

1. EXISTING USE: Lots 4 and 5 are vacant commercial tracts of land.

2. PHYSICAL AND ENVIRONMENTAL CHARACTERISTICS: Lots 4 and 5 are flat tracts of land with frontage on three public rights-of-way, US-24 Highway on the north, South Port Drive on the east and South Port Road on the south and west. The existing grade of the site is at 1014 feet.

Lot 4 is shown on adopted Flood Insurance Rate Map (FIRM) Panel 359 of 500, dated July 6, 2010, Zone X, areas outside 0.2% annual chance floodplain in the northwest corner, Zone X, 0.2% annual chance floodplain (500-year) for the majority of the lot, and 1% (100-year) floodplain in the southeast corner of the lot and marginally along the north lot line, Base Flood Elevation (BFE) 1010 feet National Geodetic Vertical Datum (NGVD).

Lot 5 is shown on adopted Flood Insurance Rate Map (FIRM) Panel 359 of 500, dated July 6, 2010, in Zone X, 0.2% annual chance floodplain (500-year) in the approximate southeast half, and Zone X, areas outside 0.2% annual chance floodplain, in the northwest half.

Lots 4 and 5 are shown on the Preliminary FIRM for Riley County, undated Panel 359 of 500, Zone AE, BFE 1014 feet (NGVD), except the northwest part of Lot 5 is in Zone X, areas outside 0.2% annual chance floodplain, and the southeast corner of Lot 4 is also in the same Zone X. Preliminary FIRMS are expected to be adopted in the 2013-2014 time period. For future compliance with flood plain elevation requirements, the lowest enclosed floors of the Short Stop building and car wash will be constructed two feet above BFE, or at 1016 feet (NGVD) as shown on the PUD grading plan, Sheet C-3. Gas pump mechanical/electrical service equipment for gas pumps and vacuum cleaners should be at least one foot above future 1014 feet BFE or flood-proofed.

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: Tractor Supply, Midway Wholesale, railroad; PUD, agricultural fields, Kansas River; Pottawatomie County A-1, General Agriculture District.

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

(d.) WEST: Retail sales and wholesale; 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 4 and 5 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, and Condition No. 7, if approved.

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 4 and 5 are intended to develop as commercial lots in a manner similar to other commercial sites in the PUD.

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 rights-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 U.S.-24 Highway 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 U.S.-24 Highway rights-of-way that adjoins Heritage Square South.
- 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 U.S.-24 Highway -of-way from County - CH, Highway & Commercial Corridor District, to PUD, Commercial Planned Unit Development District.

Attachment No. 2

- November 7, 2006 City Commission approved first reading of an ordinance annexing the 6.8-acre portion of the U.S.-24 Highway right-of-way adjoining the Heritage Square South development; and, approved first reading of an ordinance rezoning the proposed Heritage Square South development and the adjoining portion of U.S.-24 Highway 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 U.S.-24 Highway rights-of-way that adjoins Heritage Square South; and, approved Ordinance No.6607 rezoning the Heritage Square South and the adjoining portion of U.S.-24 Highway 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.

Attachment No. 2

- 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.
- June 3, 2013 Manhattan Urban Area Planning Board recommends approval first reading of an ordinance amending Ordinance No. 6607 and the Preliminary Development Plan of Lot 2, and Lots 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, 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; and approves the Final Plat of Heritage square South Unit Two PUD.
- June 18, 2013 City Commission approves first reading of an ordinance amending Ordinance No. 6607 and the Preliminary Development Plan of Lot 2, and Lots 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, and the Final Development Plan of Lots 7 and 8, Heritage Square South Commercial Planned Unit Development.
- July 2, 2013 City Commission approves Ordinance No. 7010 amending Ordinance No. 6607 and the Preliminary Development Plan of Lot 2, and Lots 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, and the Final Development Plan of Lots 7 and 8, Heritage Square South Commercial Planned Unit Development; and, accepts the easements associated with Lot 2 and Lot 3, Heritage Square South Unit two PUD.
- July 2, 2013 City Commission accepts the easements as, as shown on the Final Plat of Heritage Square South, Unit Two PUD.

Attachment No. 2

Tractor Supply, Heritage Commons, and Fastenal were built in 2007. A building permit for Dollar General was issued and construction has begun. A building permit is in process for Midway Wholesale.

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 4 and 5 can proceed. The amendment process insures the PUD conforms to the requirements of all regulations.

Lots 4 and 5 are shown of the Preliminary Flood Plain maps in the 100 Year Flood Plain. The lowest enclosed floor will be elevated to at least one-foot above the proposed BFE to conform to future flood plain requirements. Gas pumps and vacuum cleaner mechanical/electrical services should be flood proofed or elevated to at least one foot above BFE.

10. RELATIVE GAIN TO THE PUBLIC HEALTH, SAFETY AND WELFARE THAT DENIAL OF THE REQUEST WOULD ACCOMPLISH, COMPARED WITH THE HARDSHIP IMPOSED UPON THE APPLICANT: There appears to be no gain to the public that denial would accomplish. No adverse affects on the public are known as a result of the amendment. 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.

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.

Attachment No. 2

City Administration recommends approval of the proposed amendment of Ordinance No. 6607, and the approved Preliminary Development Plan of Lot 4 and Lot 5, Heritage Square South Commercial Planned Unit Development, to be known as the Final Development Plan of Lot 4 and Lot 5, Heritage Square South Commercial Planned Unit Development, with the following conditions of approval:

1. Off-street parking shall be shared between Lot 4 and Lot 5.
2. Trash enclosures and trash containers shall be shared between Lot 4 and Lot 5.
3. A pole sign, as proposed in the application documents, shall be permitted on Lot 4.

ALTERNATIVES:

1. Recommend approval of the proposed amendment of Ordinance No. 6607, and the approved Preliminary Development Plan of Lot 4 and Lot 5, Heritage Square South Commercial Planned Unit Development, to be known as the Final Development Plan of Lot 4 and Lot 5, Heritage Square South Commercial Planned Unit Development, stating the basis for such recommendation.
2. Recommend approval of the proposed amendment of Ordinance No. 6607, and the approved Preliminary Development Plan of Lot 4 and Lot 5, Heritage Square South Commercial Planned Unit Development, to be known as the Final Development Plan of Lot 4 and Lot 5, Heritage Square South Commercial Planned Unit Development, stating the basis for such recommendation.
3. Recommend denial of the proposed amendment of Ordinance No. 6607 and the approved Preliminary Development Plan of Ordinance No. 6607, and the approved Preliminary Development Plan of Lot 4 and Lot 5, Heritage Square South Commercial Planned Unit Development, to be known as the Final Development Plan of Lot 4 and Lot 5, Heritage Square South Commercial Planned Unit Development, 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 of Ordinance No. 6607, and the approved Preliminary Development Plan of Lot 4 and Lot 5, Heritage Square South Commercial Planned Unit Development, to be known as the Final Development Plan of Lot 4 and Lot 5, Heritage Square South Commercial Planned Unit Development, based on the findings in the Staff Report, with three conditions of approval.

Attachment No. 2

PREPARED BY: Steve Zilkie, AICP, Senior Planner.

DATE: July 11, 2013.

13056}SR}Lo4Lot5}HerSqSouthPUD}ShortStop