

MINUTES
CITY COMMISSION MEETING
TUESDAY, AUGUST 20, 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, 12 staff, and approximately 20 interested citizens.

PLEDGE OF ALLEGIANCE

Mayor Matta led the Commission in the Pledge of Allegiance.

COMMISSIONER COMMENTS

Commissioner Jankovich reminded citizens that with the new school year, the Schools of Hope program is looking for volunteers for their reading mentoring program and are having a training session on August 28, 2013, at the Manhattan Public Library. He stated that if you are interested in volunteering, contact the Manhattan RSVP office.

Commissioner Reddi voiced appreciation for the event ceremony of a beautiful park bench installed in City Park last Saturday and was appreciative of the Parks staff to help honor the memories of Bill Michel by the Slife family. She reminded citizens that students are back to school and to be mindful while driving of school buses and children near bus stops. She also mentioned the new feature on the City's website online feature that makes it more convenient to access Parks and Recreation information, Sunset Zoo and the Flint Hills Discovery Center events, and to purchase tickets and memberships.

Commissioner McCulloh stated that the Slife family event last Saturday was very nice and a great way to remember someone through charitable giving with a new bench in City Park. She attended an all weekend meeting and visited the Sunset Zoo and the Flint Hills Discovery Center and thanked the Manhattan Convention and Visitors Bureau (CVB) and Karen Hibbard, Director, CVB, for welcoming visitors to the community. She also encouraged the community to attend the Downtown Farmers Market.

COMMISSIONER COMMENTS (CONTINUED)

Mayor Matta provided information on the news conference held earlier in the day at the Manhattan Regional Airport announcing that Allegiant Airlines would be providing nonstop service to Phoenix-Mesa starting in November 2013. He stated that for a limited time only, you can take advantage of their special introductory roundtrip airfare for \$99.

CONSENT AGENDA

(* denotes those items discussed)

MINUTES

The City Commission approved the minutes of the Regular City Commission Meeting held Tuesday, August 6, 2013.

CLAIMS REGISTER NO. 2738

The City Commission approved Claims Register No. 2738 authorizing and approving the payment of claims from July 31, 2013, to August 13, 2013, in the amount of \$2,517,485.67.

LICENSE

The City Commission approved a Fireworks Display License for Purple Power Play on Poyntz on August 29, 2013, at City Park.

ORDINANCE NO. 7030 – AMEND – WATER CONSERVATION

The City Commission approved Ordinance No. 7030 amending Article II of Chapter 32 of the Code of Ordinances relating to water conservation.

ORDINANCE NO. 7031 – ADOPT – 2014 BUDGET

The City Commission approved Ordinance No. 7031 adopting the budget for 2014.

RESOLUTION NO. 082013-A – APPROVE – 2014-2019 CAPITAL IMPROVEMENT PROGRAM

The City Commission approved Resolution No. 082013-A approving the 2014-2019 Capital Improvement Program.

ORDINANCE NO. 7032 – INCREASE – WASTEWATER RATES

The City Commission approved Ordinance No. 7032 amending applicable sections of Chapter 32 of the Code of Ordinances to increase wastewater rates, effective January 1, 2014.

CONSENT AGENDA (CONTINUED)

CHARTER ORDINANCE NO. 52 – INCREASE – STORMWATER RATES

The City Commission approved Charter Ordinance No. 52 increasing stormwater rates effective January 1, 2014.

ORDINANCE NO. 7033 – AMEND – CEMETERY FEES AND CHARGES

The City Commission approved Ordinance No. 7033 amending Article II, Sections 9-18, 9-23, and 9-28 regarding cemetery fees and charges, effective January 1, 2014.

* **ORDINANCE NO. 7034 – REZONE – 1021 AND 1027 THURSTON STREET**

Commissioner Reddi stated that she voted against this item at the last legislative session and reiterated that she wanted to wait until the Comprehensive Plan was updated. She stated that she did not want to set a precedent with approval of the rezoning for other developers.

The City Commission overrode the Manhattan Urban Area Planning Board's recommendation and approved Ordinance No. 7034 rezoning 1021 and 1027 Thurston Street (Lots 584 and 585, Ward 3) from R-2/TNO, Two-Family Residential District with Traditional Neighborhood Overlay District, to R-3/M-FRO, Multiple-Family Residential District with Multi-Family Redevelopment Overlay District, based on the Commission's discussion and findings on August 6, 2013, and the five (5) factors supporting the rezoning (*See Attachment No. 1*). (*Staff Report is attached as Attachment No. 2*.)

ORDINANCE NO. 7035 – AMEND – HERITAGE SQUARE SOUTH COMMERCIAL PLANNED UNIT DEVELOPMENT (PUD)

The City Commission approved Ordinance No. 7035 amending Ordinance No. 6607 and the Preliminary Development Plan of Lots 4 and 5, Heritage Square South Commercial Planned Unit Development, to be known as the Final Development Plan of Lots 4 and 5, Heritage Square South Commercial Planned Unit Development, generally located southwest of the intersection of South Port Drive and US 24, based on the findings in the Staff Report (*See Attachment No. 3*), with the three conditions of approval recommended by the Manhattan Urban Area Planning Board.

* **RESOLUTION NO. 082013-B – TEMPORARY NOTE SERIES 2013-04**

Ron Fehr, City Manager, commented on the temporary note sale held earlier in the day. He stated that the City received four bids with the lowest bid on the notes received from Hutchinson, Shockey, Erley & Co., of Chicago, Illinois, with a true interest cost of 1.13%.

CONSENT AGENDA (CONTINUED)

* **RESOLUTION NO. 082013-B – TEMPORARY NOTE SERIES 2013-04 (CONTINUED)**

The City Commission approved accepting the best bid from Hutchinson, Shockey, Erley & Co., of Chicago, Illinois, for selling the notes; and approved Resolution No. 082013-B issuing Temporary Note Series No. 2013-04 in the amount of \$1,730,000.00 to finance: *Grand Vista, Unit Three – Sanitary Sewer (SS1304), Street (ST1304), and Water (WA1304); Highland Meadows, Unit Seven – Sanitary Sewer (SS1303), Street (ST1303), and Water (WA1303); Lee Mill Heights, Unit Eight – Sanitary Sewer (SS1306), Street (ST1307), and Water (WA1306); and Tecumseh/Quivera, Phase 2A - Stormwater (SM1302).*

RESOLUTION NO. 082013-C – TEMPORARY NOTE SERIES 2013-05

The City Commission approved the issuance of the internal notes and approved Resolution No. 082013-C issuing Temporary Note Series No. 2013-05 in the amount of \$125,000.00 to finance the design of the *17th Street and Anderson Avenue Project (ST0824).*

RESOLUTION NO. 082013-D – REVISED PETITION – SCENIC MEADOWS ADDITION, UNIT THREE, PHASE 2 – STREET (ST1006) IMPROVEMENTS

The City Commission found the revised street petition sufficient and approved Resolution No. 082013-D finding the Scenic Meadows Addition, Unit Three, Phase 2, Street (ST1006) Improvements project advisable and authorizing construction and rescinding Resolution No. 060110-B.

CONTRACT AMENDMENT NO. 1 – ENGINEERING SERVICES – SCENIC MEADOWS ADDITION, UNIT THREE, PHASE 2 – STREET (ST1006) IMPROVEMENTS

The City Commission authorized the Mayor and City Clerk to execute Contract Amendment No. 1 to the Engineering Services Agreement with SMH Consultants, of Manhattan, Kansas, in the amount of \$26,000.00, for the Scenic Meadows Addition, Unit Three, street improvements (ST1006).

RESOLUTION NO. 082013-E – PETITION – SCENIC MEADOWS ADDITION, UNIT THREE, PHASE 2 – STORMWATER (SM1303) IMPROVEMENTS

The City Commission found the stormwater petition sufficient and approved Resolution No. 082013-E finding the Scenic Meadows Addition, Unit Three, Phase 2, Stormwater (SM1303) Improvements project advisable and authorizing construction.

CONSENT AGENDA (CONTINUED)

AGREEMENT – ENGINEERING SERVICES – SCENIC MEADOWS ADDITION, UNIT THREE, PHASE 2 – STORMWATER (SM1303) IMPROVEMENTS

The City Commission authorized the Mayor and City Clerk to execute an Agreement for Engineering Services with SMH Consultants, of Manhattan, Kansas, in the amount of \$10,000.00, for the Scenic Meadows Addition, Unit Three, stormwater (SM1303) improvements.

NEGOTIATE CONTRACT – CONSTRUCTION ENGINEERING SERVICES – OLD BIG BLUE BEAUTIFICATION – STORMWATER IMPROVEMENTS, PHASES III AND IV (SM1106)

The City Commission approved the selection committee's recommendation and authorized City Administration to negotiate with BG Consultants, Inc., of Manhattan, Kansas, for Construction Engineering Services for the Old Big Blue Beautification Stormwater (SM1106) Improvements, Phases III and IV.

CONTRACT – WATER TREATMENT PLANT ELEVATOR MODERNIZATION PROJECT (WA1312)

The City Commission authorized the Mayor and City Clerk to execute a contract in the amount of \$74,792.00 with ThyssenKrupp Elevator, of Wichita, Kansas, for the Water Treatment Plant Elevator Modernization Project (WA1312, CIP #WA111P).

GRANT AGREEMENT/PUBLIC SERVICE AGREEMENTS – CDBG CONSOLIDATED PLAN – YEAR FOUR

The City Commission authorized the Mayor to execute the Community Development Block Grant (CDBG) 2013 Grant Agreement and the Mayor and City Clerk to execute the CDBG Public Services agreements when completed.

- * AGREEMENT – HOUSING REHABILITATION – 730 LARAMIE STREET
Karen Davis, Director of Community Development, responded to questions from the Commission and provided additional information on the item.

The City Commission authorized the Mayor and City Clerk to enter into an agreement with the property owner at 730 Laramie Street for expenditure of Housing Rehabilitation Funds and any necessary modifications to the agreement after the bid is considered on September 3, 2013.

BOARD APPOINTMENTS

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

CONSENT AGENDA (CONTINUED)

BOARD APPOINTMENTS (CONTINUED)

Board of Zoning Appeals

Appointment of Angie Danner, 419 Oakdale Drive, to fill the unexpired term of Joseph Aistrup. Ms. Danner's term begins immediately, and will expire December 31, 2013.

Corporate Technology Park Architectural Review Committee

Re-appointment of Karen Davis, 1101 Poyntz Avenue, to a three-year term. Ms. Davis' term begins immediately, and will expire August 15, 2016.

Partner City Advisory Committee

Re-appointment of Glen F. Lojka, 5240 Terra Heights, to a three-year term. Mr. Lojka's term will begin September 1, 2013, and will expire August 31, 2016.

Special Alcohol Funds Advisory Committee

Appointment of Meagan Cramer, 4284 Jane Drive, to a three-year term. Ms. Cramer's term begins immediately, and will expire June 30, 2016.

Appointment of Matthew Yates, 1532 Harry Road, to a three-year term. Mr. Yates' term begins immediately, and will expire June 30, 2016.

After discussion and comments from the Commission, Commissioner McCulloh moved to approve the consent agenda. Commissioner Jankovich seconded the motion. On a roll call vote, motion carried 5-0, with the exception of Item I, ORDINANCE NO. 7034 – REZONE – 1021 AND 1027 THURSTON STREET, which carried 4-1, with Commissioner Reddi voting against the item.

GENERAL AGENDA

FIRST READING – REZONE - TRACTS 1 AND 2 IN THE PROPOSED MCD ADDITION

Eric Cattell, Assistant Director for Planning, presented an overview of the item and the site plan of the proposed rezoning. He then responded to questions from the Commission.

Mark Bachamp, Olsson Associates, representing McDonald's, responded to questions from the Commission regarding saving the trees on the lot. He informed the Commission that the likelihood of the existing trees staying is pretty remote considering the parking lot and the new building, but said that he would take a look at the trees closer to the north.

GENERAL AGENDA (CONTINUED)

FIRST READING – REZONE - TRACTS 1 AND 2 IN THE PROPOSED MCD ADDITION (CONTINUED)

After discussion, Commissioner Jankovich moved to approve first reading of an ordinance rezoning Tract 1 from R-2, Two-Family Residential District, and Tract 2 from R-2, Two-Family Residential District with TNO, Traditional Neighborhood Overlay District, with both Tracts 1 and 2 going to C-5, Highway Service Commercial District, generally located northeast of the intersection of N. 4th Street and Bluemont Avenue, based on the findings in the Staff Report (*See Attachment No. 4*) and the recommendation of the Planning Board. Commissioner Butler seconded the motion. On a roll call vote, motion carried 5-0.

PRESENTATION - 2012 AUDIT REPORT

Bernie Hayen, Director of Finance, introduced the item and recognized members of the Municipal Audit Committee.

Michelle Crow, Varney & Associates CPAs, LLC, acknowledged members from the Varney & Associates team that conducted the audit. She provided an overview and summary of the different phases which comprised the audit including planning and risk assessments; field work and extra procedures performed; compliance and regulation; and the final phase of the actual reporting of the findings.

Matt Schwartz, Varney & Associates CPAs, LLC, informed the Commission that they reviewed compliance of the STAR Bonds and no exceptions or findings were found. He provided additional information on the 2012 Audit and highlighted items related to the grant monitoring process, passenger facility charges, federal awards, audit opinion for financial statements, management letter, court receivable allowances, cash reconciliation, and capital assets. He informed the Commission that City staff was accommodating to work with during the course of the audit and management responses and actions have been appropriate.

Dr. Eric Higgins, Chair, Municipal Audit Committee, thanked and acknowledged the other Municipal Audit Committee members, Varney & Associates audit team, City financial staff, and thanked the City Commission for allowing public input on the important process to audit the City financials. He provided background information on the process and scope of the audit with Varney & Associates. He discussed the grant process and grant monitoring policy that was adopted by the City. He also highlighted specific areas that were evaluated which included the Flint Hills Discovery Center; Municipal Court receivables, cash reconciliation, and how cash is handled when receiving payments; and capital assets and depreciation efforts.

GENERAL AGENDA (CONTINUED)

PRESENTATION - 2012 AUDIT REPORT (CONTINUED)

After comments and questions from the Commission, Dr. Eric Higgins, Chair, Municipal Audit Committee, responded to questions from the Commission regarding the Audit Committee and the possibility to evaluate specific items on the return on an investment, similar to the analysis conducted earlier on water meters by a student group from Kansas State University.

Ron Fehr, City Manager, provided additional information regarding the item. He stated that each budget cycle provides an opportunity to monitor specific items and provide preliminary projections and reports to make an analysis.

Dr. Eric Higgins, Chair, Municipal Audit Committee, informed the Commission that the Municipal Audit Committee serves at the pleasure of the Commission and the Committee would entertain items that may be outside the scope of the audit if the Commission wants.

Bernie Hayen, Director of Finance, acknowledged Rina Neal, City Controller, for her great work with the audit and the Comprehensive Annual Financial Report. He also expressed his appreciation with the collaborative efforts of the Municipal Audit Committee and with Varney and Associates.

After discussion and comments from the Commission, Commissioner Jankovich moved to receive and accept the Auditor's reports for the 2012 City Audit. Commissioner McCulloh seconded the motion. On a roll call vote, motion carried 5-0.

ADJOURNMENT

At 7:45 p.m., the Commission adjourned.



Gary S. Fees, MMC, City Clerk

Five Factors Supporting the Rezoning of 1021 and 1027 Thurston Street

3. SURROUNDING LAND USE AND ZONING:

There is an existing twelve-plex apartment building in the same block on the north side of Thurston Street that was built in the 1980's and there is a newly constructed twelve dwelling unit apartment building to the south of the rezoning site on the south side of the alley.

4. GENERAL NEIGHBORHOOD CHARACTER:

The Commission believes that the neighborhood character of the block in question has already changed to more rental oriented housing, due to its proximity to the university.

7. CONFORMANCE WITH COMPREHENSIVE PLAN:

While it does not conform with the current Plan, the site adjoins the high density M-FRO Multiple-Family Redevelopment Overlay area identified in the Plan to the south and west.

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:

The change of zoning will accommodate redevelopment of the underutilized properties on the site, one of which is currently uninhabitable, which will make this an income producing property and help address student housing needs.

12. OTHER APPLICABLE FACTORS:

New information was presented that the existing sanitary sewer will have capacity to handle the increased density from this requested rezoning.

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. 2

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. 3

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. 3

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. 3

- 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.

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- 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.

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. 3

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. 3

PREPARED BY: Steve Zilkie, AICP, Senior Planner.

DATE: July 11, 2013.

13056}SR}Lo4Lot5}HerSqSouthPUD}ShortStop

STAFF REPORT

APPLICATION: The application is a request to rezone two tracts of land generally located northeast of the intersection of Bluemont Avenue and N. 4th Street roundabout. *(Note: A separate application was submitted by the applicant to Concurrent Plat two service commercial lots for the proposed MCD Addition. Proposed Lot 1 is for a relocated McDonald's drive in restaurant fronting on N. 4th Street, and proposed Lot 2 is for a future service commercial lot fronting generally southwest of the Vattier Street and N. 3rd Street intersection. Tracts 1 and 2, which are are described in this rezoning staff report, are within the proposed MCD Addition.)*

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

TO: C-5, Highway Service Commercial District.

APPLICANT'S NAME AND ADDRESS: The applicant is McDonalds USA LLC (Howard Johnson), 10801 Mastin Blvd., Overland Park, KS 66210 *(application documents attached.)*

OWNERS' NAMES, LEGAL OWNERSHIP TO BE REZONED, AND ADDRESSES: The owners are:

- McDonald's Corporation, a Delaware Corporation (existing Lots 15 and 16, Ward 3), 10801 Mastin Blvd. Suite 400, Overland Park, KS 66210.
- Mark A. Stremel, Trustee of the AMS Real Estate Trust under agreement dated March 4, 2003 (existing Lot 7, Ward 3); 3630 Marlatt Avenue, Manhattan, KS 66503.
- AMS Real Estate Trust under agreement dated March 4, 2003 (existing Lot 8 and East ½ Lot 9, Ward 3), 3630 Marlatt Avenue, Manhattan, KS 66503.
- Clark E. Linders (existing West ½ Lot 9 and part of Lot 10, Ward 3), 3630 Marlatt Avenue, Manhattan, KS 66503.
- Clark E. Linders and Christy E. Linders (existing Lots 17 and 18, Ward 3), 3630 Marlatt Avenue, Manhattan, KS 66503.
- City of Manhattan (western portion of the public alley right-of-way), 1101 Poyntz Avenue, Manhattan KS 66502.

LEGAL DESCRIPTIONS: The two tracts of land to be rezoned consist of Tract 1 and Tract 2.

Tract 1: legal description of property to be rezoned from R-2 to C-5

All of Lots 15 and 16 in Ward 3, City of Manhattan, Riley County, Kansas, as shown on the recorded plat thereof.

ALSO DESCRIBED AS:

Beginning at the Northeast corner of said Lot 15; thence South 0°00'11" East, 150 feet (plat), 150.17 feet (measured) to the Southeast corner of said Lot 15; thence South 89°48'13" West, 100 feet (plat), 100.32 feet (measured) along the South line of said Lots 15 and 16 to the Southwest corner of said Lot 16; thence North 0°00'11" West, 150 feet (plat), 150.17 feet (measured) along the West line of said Lot 16 to the Northwest corner thereof; thence North 89°48'13" East, 100 feet (plat), 100.32 feet (measured) along the North line of said Lots 16 and 15 to the point of beginning.

Tract 2: legal description of property to be rezoned from R-2/TNO to C-5

All of Lots 7, 8, 9, 10, 17 and 18 in Ward 3, City of Manhattan, Riley County, Kansas, including the 15' wide alley adjacent to said Lots as shown on the recorded plat thereof, EXCEPT: That part of Lots 9 and 10 conveyed to the City of Manhattan, Kansas, in Deed Book 838, Page 6332.

ALSO DESCRIBED AS:

Beginning at the Northeast corner of said Lot 17; thence South 0°00'11" East, 150 feet (plat), 150.17 feet (measured) to the Southwest corner of said Lot 17; thence North 89°48'13" East, 100 feet (plat), 100.32 feet (measured) along the South line of Lots 16 and 15 to the Southeast corner of said Lot 15; thence South 0°00'11" East, 165 feet (plat), 165.17 feet (measured) along the East line of said Lot 7 to the Southeast corner thereof; thence South 89°14'38" West, 125.52 feet along the South line of said Lots 7, 8 and 9 to a point on the Northerly right of way of Bluemont Avenue as described in Warranty Deed recorded in Book 838, Page 6332; thence North 0°02'46" East, 9.57 feet along said right of way; thence North 70°17'37" West, 20.37 feet along said right of way; thence North 44°46'18" West, 31.89 feet along said right of way; thence North 30°38'30" West, 31.89 feet along said right of way; thence North 15°47'22" West, 24.03 feet along said North right of way; thence South 89°48'13" West, 9.51 feet to a point on the East right of way of North 4th Street; thence North 0°01'35" West, 60.32 feet along said East right of way to a point on the North line of said Lot 10; thence South 89°48'13" West, 1.21 feet to a point representing the former Northwest corner of said Lot 10; thence North 0°00'11" West,

Attachment No. 4

165 feet (plat), 165.17 feet (measured) to the Northwest corner of said Lot 18; thence North 89°48'13" East, 100 feet (plat), 100.31 feet (measured) to the point of beginning.
C-5.

LOCATION: Tracts 1 and 2 are generally located in the western part of the 300 Block of Bluemont Avenue, for that part of the 300 Block, which is north of Bluemont Avenue, south of Vattier Street, and east of N. 4th Street.

AREA:

Tract 1: The area is approximately 15,000 square feet, 0.344 acres.

Tract 2: The area is approximately 44,913 square feet, 1.03 acres.

DATE OF NEIGHBORHOOD MEETING: April 25, 2013.

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

DATE OF PUBLIC HEARING: PLANNING BOARD: Monday, August 5, 2013.

CITY COMMISSION: Tuesday, August, 20, 2013.

THIRTEEN MATTERS TO BE CONSIDERED WHEN REZONING

1. EXISTING USE:

Tract 1

Tract 1 consists of Lots 15 and 16, which are zoned R-2 District, and located on the north side of the 15 foot wide public alley right-of-way.

The western rear portion of the existing McDonald's restaurant, order lane, menu board, and off-street parking are on Lot 15. Off-street parking, entrance and exit driveway off Vattier Street, six foot tall wood screening fence, and screened trash enclosure, are on Lot 16.

Tract 2

Tract 2 consists of platted lots described above and the western public alley right-of-way being approximately 200 feet in length by 15 feet in width adjoining Lots 15-18 on the north side of the alley and Lots 7-10 on the south side of the alley.

Lots 7, 9, and 10 are vacant lots.

Attachment No. 4

Lot 8 has a detached garage in the north part of the lot and a partial building foundation in the south part.

On the South 80 feet of Lots 17 and 18 is a vacant four-family dwelling unit fronting on N. 4th Street, with concrete off-street parking area and two detached garages in the east part of the site.

On the North 70 feet of Lots 17 and 18 is a detached garage on the east side of the lots.

2. PHYSICAL AND ENVIRONMENTAL CHARACTERISTICS: The combined rezoning tracts are flat with storm drainage to the existing streets and public alley, part of which drains to an existing catch basin at the intersection of N. 4th Street and Bluemont Avenue, and part to a storm sewer inlet on the west side of N. 3rd Street, north of Kearney Street and N. 3rd Street intersection.

Tract 1 lots are urban service commercial development, asphalt parking lot, building and minimal green space.

Tract 2 lots are largely grass covered sites with scattered large mature trees, several existing structures and paved areas.

The public alley right-of-way is paved with concrete, which is in good condition.

Tracts 1 and 2 are in Zone X, 0.2% annual chance floodplain (commonly called the 500 year floodplain), an area that is not regulated by the Manhattan Zoning Regulations, Article X, Flood Plain Regulations. The proposed Preliminary Floodplain maps designate the area Zone X, area protected by levee, 0.2% annual chance floodplain, which will not be regulated for development purposes.

3. SURROUNDING LAND USE AND ZONING:

NORTH: Vattier Street, vacant service commercial buildings, service commercial buildings along N. 3rd Street, single-family dwellings, and a vacant residential lot; C-5 District and R-1, Single-Family Residential District with TNO District.

SOUTH: Bluemont Avenue, drug store with drive-up window, commercial shopping center; PUD, Planned Unit Development.

EAST: Auto service business, vacant convenience store, N. 3rd Street, drive-in restaurant, and Tuttle Creek Boulevard: C-5 District.

WEST: N. 4th Street, single-family and two-family residential dwellings, church, and residential building used by Manhattan Parks and Recreation Department; R-1 District with TNO and with R-2 with TNO.

4. GENERAL NEIGHBORHOOD CHARACTER: The general character of the neighborhood in which Tracts 1 and 2 are located ranges from commercial areas consisting of a shopping center to the south, and highway service commercial uses, consisting of auto related services and rental of trailers, convenience store, and drive-in restaurants, to the east and northeast along N. 3rd Street. A neighborhood generally characterized as low density residential with a mix of single-family and two-family dwellings, and a church, is located to the northwest, west, and southwest. The general character of the area to be rezoned along Bluemont Avenue between N. 3rd Street and N. 4th Street is commercial. The general character of the area to be rezoned along Vattier Street, N. 3rd Street and N. 4th Street is residential and service commercial.

Tracts 1 and 2 are at major street intersection which has redeveloped areas (north redevelopment area and south redevelopment area) east of N. 4th and S. 4th Streets extending from Bluemont Avenue to Ft. Riley Boulevard. The general character of the neighborhood north of Bluemont Avenue and east of N. 4th Street will continue to redevelop.

5. SUITABILITY OF SITE FOR USES UNDER CURRENT ZONING: Under the current legal ownerships, all of the lots, except for Lots 15 and 16, are suitable in terms of meeting minimum lots size requirements for R-2 new construction. Lots 15 and 16 are not suitable for R-2 uses as the two lots are part of the existing McDonald's drive-in restaurant and have been since the early 1974 when the drive-in restaurant was built. The nature of the existing 300 block of Bluemont Avenue between Vattier Street on the north, Bluemont Avenue on the south, N. 3rd Street on the east, and N. 4th Street on the west does not lend itself to residential development due to the evolving commercialization of the intersection or its expected future commercialization with the extension of McCall Road. Service commercial has been part of the neighborhood for many years including drive-in restaurants and other highway service commercial uses.

6. COMPATIBILITY OF PROPOSED DISTRICT WITH NEARBY PROPERTIES AND EXTENT TO WHICH IT MAY HAVE DETRIMENTAL AFFECTS: An increase in light, noise and traffic can be expected but should not be inconsistent with the existing general urban character in the neighborhood. Tracts 1 and 2 are located along or nearby two commercial corridors, Bluemont Avenue and N. 3rd Street. East to west local streets, including and Vattier Street, located north of Bluemont between N. 3rd Street and N. 4th Street have functioned, as do many east west local streets, as traffic routes to service commercial uses on N. 3rd Street. Traffic to the existing McDonald's restaurant uses both N. 3rd Street for access, as well as N. 4th Street and Vattier Street.

Access will rely on N. 4th Street with other abutting streets continuing to accommodate the overall established access with the expanded proposed service commercial neighborhood.

7. CONFORMANCE WITH COMPREHENSIVE PLAN: Tracts 1 and 2 are shown on the Downtown Core Neighborhoods Future Land Use Plan of the Comprehensive Plan as Residential Low/Medium Density (RLM). Policies from the Comprehensive Plan are noted in italics.

Policy statement RLM 1: Characteristics in the Comprehensive Plan describe uses which may be found in low density neighborhoods,

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.

The rezoning tracts are adjacent or nearby C-5, Highway Service Commercial District neighborhood located along both sides of N. 3rd Street, north of Bluemont Avenue. The Comprehensive Plan shows this area as Community Commercial (CC). Policy statements regarding CC, which may be implemented by the proposed C-5 District, follow:

Community Commercial (CC)

CC 1: Characteristics

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

CC 2: Location

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

CC 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 for vehicles, pedestrians, and bicycles.

Staff Analysis

Characteristics of Community Commercial (CC)

CC1: Characteristics

This policy envision a larger scale commercial neighborhood, but as noted in the policy statement, some single use highway service activities may still occur, but are not generally encouraged. Tracts 1 and 2, as part of the proposed MCD Addition, are within and adjoin a commercial neighborhood developed with single use activities. The Comprehensive Plan reflects the single use nature of the area along N. 3rd Street, which includes the single use site for the existing McDonald’s restaurant with frontages on Bluemont Avenue, N. 3rd Street and Vattier Street.

Location of Community Commercial (CC)

CC2: 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.

Single use sites along N. 3rd Street are accessed from that street, which is classified a collector. The existing McDonald’s restaurant also fronts with an exit only onto Bluemont Avenue, an arterial street, and a curb cut on Vattier Street, classified a local street.

The proposed rezonings are adjacent to an urban neighborhood setting and commercial corridor. The neighborhood south of Tracts 1 and 2 along Bluemont Avenue between N. 3rd Street and N. 4th Street is commercial. The neighborhood along the north side of the street is partially service commercial. Expanding the service commercial neighborhood westerly to the N. 4th Street and Bluemont intersection is consistent with the commercial nature of the Bluemont corridor between N. 3rd Street and N. 4th Street, and the expected extension of McCall Road west and south to Bluemont Avenue and N. 4th Street intersection.

CC 8: Circulation and Access

Sidewalks and access points are or will be provided for vehicular and pedestrian access from the surrounding street network.

The proposed rezoning of Tracts 1 and 2 are in general conformance with Community Commercial policies of the Comprehensive Plan.

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

- 1926 - A, First Dwelling House District.
- 1940 - B, Second Dwelling House District
- 1962 - A, Single and Two Family Dwelling District
- 1969 - R-2 District
- 2004 – TNO District added to R-2

Tract 1

The improvements on Tract 1 were constructed with the existing McDonald's restaurant in 1974.

Tract 2

Existing residential structures on Bluemont Avenue and the southwest corner of Vattier Street and N. 4th Street were moved to other locations inside and outside the City in the timeframe 2011-2012.

The existing four-family residential dwelling unit located north of the alley at 822 N. 4th Street was constructed in 1965.

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

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

The C-5, Highway Service Commercial District (*regulations attached*) is designed to provide for businesses offering accommodations, supplies, or services to motorists, and for certain specialized activities which require access to major streets and highways.

The proposed rezoning of Tracts 1 and 2 will expand the existing C-5 District consistent with the intent of 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 does not appear to be an adverse impact on the public health, safety and general welfare the rezonings will create. Adequate public facilities are generally available to serve Tracts 1 and 2. Dedication of right-of-way on the east side of N. 4th Street associated with Lot 1 of the proposed MCD Addition, as well as street improvements in the Bluemont Avenue right-of-way associated with the proposed MCD Addition, will be a gain to the public. It may be a hardship on the applicant if the rezoning is denied as no adverse affect on the public is anticipated.

11. ADEQUACY OF PUBLIC FACILITIES AND SERVICES:

Adequate public sewer and water facilities and services are available to serve Tracts 1 and 2. Right-of-way for the future extension of McCall Road will be dedicated on the east side of N. 4th Street with the proposed Final Plat of the MCD Addition, which will save public costs that may have otherwise been expected with acquisition to accommodate necessary right-of-way. Street improvements in the Bluemont Avenue right-of-way will be provided to control turning movements from a proposed entrance only exit only associated with the proposed restaurant on Lot 1.

12. OTHER APPLICABLE FACTORS: None.

13. STAFF COMMENTS: City Administration recommends approval of the proposed rezoning of Tract 1 from R-2, Two-Family Residential District, and Tract 2 from R-2, Two-Family Residential District with TNO, Traditional Neighborhood Overlay District, both Tract 1 and Tract 2 to C-5, Highway Service Commercial District, based on the findings in the Staff Report.

ALTERNATIVES:

4. Recommend approval of the proposed rezoning of Tract 1 from R-2, Two-Family Residential District, and Tract 2 from R-2, Two-Family Residential District with TNO, Traditional Neighborhood Overlay District, both Tract 1 and Tract 2 to C-5, Highway Service Commercial District, stating the basis for such recommendation.
5. Recommend denial of the proposed rezoning, stating the specific reasons for denial.
6. Table the proposed rezoning to a specific date, for specifically stated reasons.

POSSIBLE MOTION:

The Manhattan Urban Area Planning Board recommends approval of the proposed rezoning of Tract 1 from R-2, Two-Family Residential District, and Tract 2 from R-2, Two-Family Residential District with TNO, Traditional Neighborhood Overlay District, both Tract 1 and Tract 2 to C-5, Highway Service Commercial District, based on the findings in the Staff Report .

PREPARED BY: Steve Zilkie, AICP, Senior Planner.

DATE: July 31, 2013

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