

MINUTES
CITY COMMISSION MEETING
TUESDAY, SEPTEMBER 3, 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, 6 staff, and approximately 50 interested citizens.

PLEDGE OF ALLEGIANCE

Mayor Matta led the Commission in the Pledge of Allegiance.

PROCLAMATIONS

Mayor Matta proclaimed September 17-23, 2013, **Constitution Week**. Sydney Carlin, Constitution Week Chairman; Linda Weis, Commemorative Events Chairman; and Ila Morrill, Regent Polly Ogden Chapter, Daughters of the American Revolution Chapter, were present to receive the proclamation.

Mayor Matta proclaimed September 2013, **Recovery Month**. Robbin Cole, Executive Director, Pawnee Mental Health Services, Anne Browne, Member; and Carroll Hess, Member; Pawnee Board of Directors, were present to receive the proclamation.

PUBLIC COMMENTS

Mayor Matta opened the public comments.

Hearing no comments, Mayor Matta closed the public comments.

COMMISSIONER COMMENTS

Commissioner Jankovich expressed his appreciation to Gary Stith, Interim Director, Flint Hills Regional Council, for his work with the Regional Council. He also wished Bill Clark, Director, Flint Hills Regional Council, the best of success in his new position.

Commissioner Reddi stated that Purple Power Play in City Park went well last week and expressed her appreciation with the collaboration between the City, Kansas State University, and all organizations that worked to make this a good event. She informed the community that over the past weekend, the Kansas State University football game helped fill more than eight hotels to full capacity.

Commissioner McCulloh informed the community that she and Commissioner Jankovich attended the ribbon cutting ceremony on Friday, August 30, 2013, at the low income housing recently completed at Scenic Pointe. She thanked our Senators that attended the event, Schulz Construction in building robust housing, and Chris Bailey, Chair, Manhattan Area Housing Partnership, for his exceptional work over the last 15 years.

Commissioner Butler stated that Phil Anderson is championing a fundraising project for the east bridge pier project and the group is still short a few dollars to reach matching funds available. He encouraged others to give through the greater Manhattan Community Foundation to make good use of the east bridge pier and bring this project to conclusion.

Mayor Matta read an email that he received from Kevin from North Dakota after the Kansas State University and North Dakota State University football game last Friday. The email informed the Mayor of his enjoyable experience while he was in Manhattan attending the football game. He expressed his appreciation to the friendly folks that he met during his stay and, commented that he did not meet one rude individual. Mayor Matta reiterated that he was also proud of the people in our community.

CONSENT AGENDA

(* denotes those items discussed)

MINUTES

The Commission approved the minutes of the Regular City Commission Meeting held Tuesday, August 20, 2013.

CLAIMS REGISTER NO. 2739

The Commission approved Claims Register No. 2739 authorizing and approving the payment of claims from August 14, 2013, to August 27, 2013, in the amount of \$2,084,939.92.

CONSENT AGENDA (CONTINUED)

ORDINANCE NO. 7036 – REZONE – MCD ADDITION

The Commission approved Ordinance No. 7036 rezoning Tract 1 from R-2, Two-Family Residential District, and Tract 2 from R-2/TNO, Two-Family Residential District with 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. 1*) and the recommendation of the Manhattan Urban Area Planning Board.

FINAL PLAT – MCD ADDITION

The Commission accepted the easements and rights-of-way, as shown on the Final Plat of MCD Addition, generally located northeast of the intersection of Bluemont Avenue and North 4th Street, based on conformance with the Manhattan Urban Area Subdivision Regulations.

FIRST READING – NO PARKING ANYTIME – HOBBS DRIVE

The Commission approved first reading of an ordinance designating a “No Parking Anytime” zone on the north and south sides of Hobbs Drive, 100 feet west of the centerline of College Avenue.

RESOLUTION NO. 090313-A – PETITION – LEE MILL HEIGHTS, UNIT FOUR, PHASE 4, AND UNIT FIVE – SANITARY SEWER IMPROVEMENTS (SS1313)

The Commission found the petition sufficient and approved Resolution No. 090313-A, finding the project advisable and authorizing construction for Lee Mill Heights, Unit Four, Phase 4, and Unit Five, sanitary sewer (SS1313) improvements.

RESOLUTION NO. 090313-B – PETITION – LEE MILL HEIGHTS, UNIT FOUR, PHASE 4, AND UNIT FIVE – STREET IMPROVEMENTS (ST1317)

The Commission found the petition sufficient and approved Resolution No. 090313-B, finding the project advisable and authorizing construction for Lee Mill Heights, Unit Four, Phase 4, and Unit Five, street (ST1317) improvements.

RESOLUTION NO. 090313-C – PETITION – LEE MILL HEIGHTS, UNIT FOUR, PHASE 4, AND UNIT FIVE – WATER IMPROVEMENTS (WA1315)

The Commission found the petition sufficient and approved Resolution No. 090313-C, finding the project advisable and authorizing construction for Lee Mill Heights, Unit Four, Phase 4, and Unit Five, water (WA1315) improvements.

CONSENT AGENDA (CONTINUED)

AGREEMENT – ENGINEERING SERVICES – LEE MILL HEIGHTS, UNIT FOUR, PHASE 4, AND UNIT FIVE, IMPROVEMENTS (SS1313, ST1317, WA1315)

The Commission authorized the Mayor and City Clerk to execute an agreement with Schwab-Eaton, P.A., of Manhattan, Kansas, to perform professional services for Lee Mill Heights, Unit Four, Phase 4, and Unit Five, sanitary sewer (SS1313), street (ST1317), and water (WA1315) improvements.

* NEGOTIATE CONTRACT – CONSULTANT – MANHATTAN URBAN AREA COMPREHENSIVE PLAN UPDATE

Ron Fehr, City Manager, responded to questions from the Commission regarding the Comprehensive Plan Update and Metropolitan Planning Organization (MPO) model. He provided clarification on the need to look at high density areas as part of the Plan Update.

Eric Cattell, Director for Planning, provided additional information regarding questions about infill and stated that high density housing is a very important key component.

The Commission accepted the recommendation from the Selection Committee and authorized City Administration to negotiate a Contract and Scope of Services with Clarion Associates, of Fort Collins, Colorado, for professional services related to an update of the Manhattan Urban Area Comprehensive Plan and related Transportation and Utility projects.

AWARD CONTRACT – LONG’S PARK IMPROVEMENT CDBG PROJECT (CD1209)

The Commission accepted the Landscape Architect’s Opinion of Probable Cost in the amount of \$170,695.00 and awarded and authorized the Mayor and City Clerk to execute a construction contract in the amount of \$124,289.44 for the base bid, \$3,634.00 for Alternate 1, \$7,928.50 for Alternate 2, and \$718.60 for Alternate 3, for a total contract amount of \$136,570.54 with R. M. Baril Construction, of Manhattan, Kansas, for the Long’s Park Improvement CDBG Project (CD1209).

AWARD CONTRACTS – HOUSING REHABILITATION PROGRAM

The Commission accepted the bids for 730 Laramie Street and 1547 Harry Road; awarded a contract in the amount of \$21,825.00 to Economy Carpentry, Painting, and Concrete, of Manhattan, Kansas, for 730 Laramie Street; awarded a contract in the amount of \$9,888.00 to Ben Kitchens Paining Co., Inc., of Junction City, Kansas, for 1547 Harry Road; authorized the Mayor and City Clerk to enter into agreements with the contractors and property owners for expenditure of Housing Rehabilitation Funds; and authorized City Administration to approve any necessary change orders.

CONSENT AGENDA (CONTINUED)

After discussion, Commissioner Jankovich moved to approve the consent agenda. Commissioner McCulloh seconded the motion. On a roll call vote, motion carried 5-0.

GENERAL AGENDA

FIRST READING – AMEND PRELIMINARY DEVELOPMENT PLAN - LOT 1, MCCALL LANDING COMMERCIAL PLANNED UNIT DEVELOPMENT

Eric Cattell, Assistant Director for Planning, presented the item and highlighted areas of the site plan.

After discussion, Commissioner Jankovich moved to approve first reading of an ordinance amending Ordinance No. 6745 and the Preliminary Development Plan of Lot 1, McCall Landing Commercial Planned Unit Development, generally located northeast of the intersection of McCall Road and Carlson Place, to be known as the Final Development Plan of Lot 1, McCall Landing Commercial Planned Unit Development, based on the findings in the Staff Report, with three conditions of approval (*See Attachment No. 2*). Commissioner Butler seconded the motion.

After additional comments from the Commission, on a roll call vote, motion carried 5-0.

AGREEMENT - 4TH STREET AND BLUEMONT AVENUE ROUNDABOUT SCULPTURE (CIP #BR013P)

Eddie Eastes, Interim Director of Parks and Recreation, provided background information and an overview of the item.

After discussion, Commissioner McCulloh moved to authorize City Administration to finalize and the Mayor and City Clerk to execute an Agreement in the amount of \$64,400.00 with Tom Ford, of Gillette, Wyoming, for design, fabrication, and installation of the sculpture "Peace Offering on the Blue" to be set atop the roundabout at 4th Street and Bluemont Avenue. Commissioner Jankovich seconded the motion.

Commissioner Butler expressed concerns with the excess revenues and mission creep of special funds for additional sculptures. He also voiced concern with the language in the proposed Agreement pertaining to maquettes.

Ron Fehr, City Manager, responded to questions from the Commission regarding funds available in the Transportation Development District (TDD) and other funding sources proposed to pay for the project.

GENERAL AGENDA (CONTINUED)

AGREEMENT - 4TH STREET AND BLUEMONT AVENUE ROUNDABOUT SCULPTURE (CIP #BR013P) (CONTINUED)

Jason Hilgers, Deputy City Manager, responded to questions from the Commission regarding the proposed Agreement and specifically, provided clarification regarding the maquettes as proposed in the Agreement between the City of Manhattan and Artist Tom Ford.

Eddie Eastes, Interim Director of Parks and Recreation, provided additional information and clarification on the proposed Agreement for the maquettes. He reiterated that the funds received would be used according to the City's purchasing policy and any additional projects would come back to the City Commission for final approval.

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

CITY AUDITORIUM EXPANSION (SP1206)

Jason Hilgers, Deputy City Manager, presented a historical perspective and overview of the item including the timeline and history beginning in 1938; the question to the City Attorney in 1947 and the Auditorium opinion survey conducted in 1948; the Mayor's Auditorium Committee Report in 1949; the site acquisition in 1951 and analysis of space requirements for the new municipal Auditorium in October 1952; the final design, bids received, contracts awarded, and construction during 1952 through 1954; the voters approved general obligation bonds to pay for the construction of the fire station in April 1954; the dedication of the Peace Memorial Auditorium that occurred in September 1955; the language on the plaque for the Peace Memorial Auditorium and the historical sketch of the facility; the floor area and allocation of use summary; the relocation of the Riley County Historical Society from Pioneer Cabin in City Park to City Hall to its current location at 2309 Claflin Road as a bicentennial project; provided the names of City Commissioners serving from 1944 to 1953; and provided a timeline summary and concluded with the recommendation to continue the design contract with Bruce McMillan Architects to renovate City Auditorium to include Parks and Recreation offices and expanded gym space.

Linda Glasgow, 2236 Snowbird Drive, Archivist/Librarian, Riley County Historical Museum, provided a PowerPoint presentation with historical information and timeline of events and activities leading to the vote of the project, the placement, the construction, and the dedication of the Peace Memorial Auditorium. She highlighted the Subcommittee on Uses of the Mayor's Auditorium Committee and their recommendations. She identified and recognized the 101 veterans from the community that served our country. She also presented photographs of the Auditorium, including the stage, permanent seating area, plaques in the lobby, and postcard of the exterior of the Peace Memorial Auditorium. She cited numerous newspaper articles, advertisements, and flyers referencing activities

GENERAL AGENDA (CONTINUED)

CITY AUDITORIUM EXPANSION (SP1206) (CONTINUED)

associated with the Peace Memorial Auditorium and events and entertainers that have performed in the City Auditorium, including Conway Twitty in the early 1960s. She informed the Commission that in reading through all the materials, she gained from the process of making selections they were looking for symbolism, architectural propriety, dignity, pride, utility, looking for an appropriate venue for veteran's organizations, widest range of community activity, and community-wide decision making.

Jim Sharp, 508 Wickham Road, informed the Commission that he was saddened that a public forum was not held several months ago to address this issue. He stated that he was speaking for the 101 boys from Riley County that gave their lives in World War II and their loved ones to keep the Peace Memorial Auditorium. He requested that this memorial be restored and not be used to build City offices when there are better alternatives. He provided background information on the organizations that pulled together to promote the Peace Memorial Auditorium and those individuals associated with veterans organizations and the Battle of the Bulge Chapter. He asked the Commission to study this carefully and to approve the recommendation approved unanimously by the Historic Resources Board and read the approved motion. He reiterated that the Commission needs to do what the Historic Resources Board has recommended and to save and restore Peace Memorial Auditorium with the funds available and stated that this is a win-win-win-win situation for Manhattan to move forward.

Dave Wetzel, 515 Oakdale Drive, asked the Commission why they are considering destroying the Auditorium and a municipal public meeting place. He stated that it makes no sense to destroy the Auditorium for offices and that there are other facilities to rent for office space and for basketball arenas with the schools. He said that to rip out the stage for more indoor athletics does not make sense and then displayed the American Flag.

Rhondi Dale, 2416 Rogers Boulevard, thanked the Commission for being willing to rethink its vote and listening to the pleas. She stated that there has not been a survey or vote of the people on this issue. She voiced concerns with the state statute cited, with the item not going to the Historic Resources Board earlier, with the amount of funds paid to the architect and allowing the design work to continue, with the perceived conflict of interest with the architect being allowed to stay on the Parks and Recreation Advisory Board, and with the unknown issues associated with asbestos materials if this project is allowed to proceed forward. She read the mission and philosophy of the Parks and Recreation Department and voiced her displeasure with the current condition of the stage. She stated the Auditorium is in a state of disrepair. She asked when the stage curtains were installed and said that she was saddened by the condition of the curtains.

Jason Hilgers, Deputy City Manager, responded to questions regarding when the stage curtains were installed and informed Mrs. Dale they were installed in 2001.

GENERAL AGENDA (CONTINUED)

CITY AUDITORIUM EXPANSION (SP1206) (CONTINUED)

Rhondi Dale, 2416 Rogers Boulevard, presented additional information on the use of the Auditorium and with the refinishing of the basketball court floor. She voiced additional concerns with needed maintenance and improvements to the stage. She also provided information on the Arts in the Park programs and use of Nichols Auditorium by the Parks and Recreation Department. She requested that the Commission think about the soldiers and honor the World War II (WWII) veterans and all veterans. She asked the Commission to follow the recommendations provided by the Historic Resources Board and to save and restore Peace Memorial Auditorium.

Greg Penfield, Commander of the Manhattan Veterans of Foreign Wars (VFW), 214 S. Fourth Street, informed the Commission that Manhattan is not a General Infantry (GI) town, but a college town. He stated that most people do not know that Peace Memorial Auditorium exists and only recognizes veterans with a two foot by three foot plaque. He challenged the City to make a new memorial to honor those that fought for our country's freedom, like Jim Sharp, who fought in the Battle of the Bulge. He encouraged the Commission to see what Junction City has accomplished in recognizing their veterans and to preserve or build a proper tribute and memorial to those that gave so much to Riley County and to this great country.

Susan Dale, 4108 East 49th Street, Tulsa, Oklahoma, provided background information about herself and stated that not one person that she has spoken with wanted the stage or permanent seating removed in the Peace Memorial Auditorium. She stated that if the permanent seating is torn out, there will be bleachers with no backs. She stated that there is land to build onto City Hall for Parks and Recreation offices and that the \$30,000 used by Parks and Recreation to rent Nichols Auditorium could be used to maintain City Auditorium. She provided several tweets from musicians and artists throughout the country who support saving the WWII Memorial and presented a \$5 bill that she received from someone that wanted the Auditorium and stage restored. She asked that the Commission put the stage lights back in that were removed, refinish the stage floor, update the electricity, and fix the permanent seating. She stated that people are willing to rent the stage, but they need to know about it and asked that the stage be redone and saved.

Kathy Dzewaltowski, 100 South Delaware Avenue, President, Manhattan Riley County Preservation Alliance, informed the Commission that the Preservation Alliance supports the motion and recommendation of the Manhattan Historic Resources Board. She stated that the Historic Resources Board should have been consulted at the beginning of the process and residents should have been provided an opportunity for input and engagement. She informed the Commission that the Auditorium and stage are suffering from neglect and listed contributing factors resulting in less facility activity. She highlighted efforts to

GENERAL AGENDA (CONTINUED)

CITY AUDITORIUM EXPANSION (SP1206) (CONTINUED)

renovate and preserve the Depot facility. She encouraged the Commission to consider other options including renovating the current Parks and Recreation offices and also constructing new offices in City Park with the funds remaining put toward restoring Peace Memorial Auditorium. She stated that the Preservation Alliance encourages the Commission to consider alternate options for improving the Parks and Recreation offices and for improving Peace Memorial Auditorium.

Mike Carmella, 323 South 14th Street, informed the Commission that he is a retired veteran and has 26 years of active service. He stated that this really upsets him and that he was not aware that this memorial was here. He provided additional background information on the item. He asked the Commission to not approve this and to recognize what the veterans have done and to not tear down the current Peace Memorial Auditorium.

Mark Collins, Topeka, President, Battle of the Bulge Kansas Chapter, thanked the veterans for their service and the City Commission. He referred to information discussed and provided clarification in the 1955 Planning Book, the election to erect a public building, and the opinion from the City Attorney, and information on the offices and fire department. He asked the Commission for more reconsideration and to build onto the current building for offices and to leave the Auditorium as it is, with upgrades.

Jean Bigbee Hill, 1818 Cedar Crest, informed the Commission of her memories as a child and the events that she attended in the Auditorium. She stated that the City can utilize the \$30,000 in rent paid to use Nichols Auditorium in order to make much needed improvements to City Auditorium. She asked the Commission to use foresight and vision in how the facility can be used as a renewed source of pride and to recognize and to honor veterans. She discussed the process in the restoration of the Depot project and the public grants and private funds that were received. She asked the Commission to make this a successful venture and to utilize the talents of Bruce McMillan to restore this facility for use for years to come.

Allen Dale, 1913 Hayes Drive, provided a potential list of entertainment opportunities and revenues from ticket sales that could be realized with a restored stage. He informed the Commission that the Sisters of Sound have the potential to bring in regional bands and classic rock bands. He stated that a restored Auditorium and stage could also attract venues such as magic acts, plays, and other performances.

At 8:36 p.m., the Commission took a brief recess.

GENERAL AGENDA (CONTINUED)

CITY AUDITORIUM EXPANSION (SP1206) (CONTINUED)

Ron Fehr, City Manager, provided clarification on the rental of Nichols Auditorium for Parks and Recreation programs and stated that the admission charges made up the costs associated with renting the facility. He also provided additional background information and clarification on the bond issue and state statutes that were used for the facility and fire station.

Commissioner Jankovich responded to comments made from several individuals that spoke during the public comment period regarding the history of the Peace Memorial Auditorium and events that have occurred and several events that he attended in the Auditorium. He provided an overview of comments presented through the meeting and the previous action of the Commission with the desire to provide new facilities for Parks and Recreation offices and to make improvements to the Auditorium. He discussed the importance of living memorials that he has researched and having a fitting memorial that honors our veterans. He reiterated the desire for this project to meet the needs of the community and to be economically feasible. He then extended his appreciation to Bruce McMillan on his efforts and the work that he has completed.

Commissioner Butler stated that the Commission has heard a lot of differing views on what is a living memorial and feedback that he has received from veterans. He highlighted and clarified several points in why the Auditorium needs to be renovated, including the need for new Parks and Recreation offices; the current Auditorium is in a state of disrepair; the fiscal considerations in bringing the Parks and Recreation to improved facilities and renovating the Auditorium at the same time; the decisions were made on data and the data says that there is a greater need for basketball courts than a stage; that consolidating the Parks and Recreation offices is a goal that the Commission has had for some time; the current stage would be removed, however, that would not prohibit performances from taking place with the ability for a portable stage for performances and functions; and stated that this is a living memorial and that the plaque does not say World War II veterans and encompasses all veterans and pioneers. He reiterated that the City is not tearing down or destroying a memorial, but the intent is to view the Auditorium as a living memorial. He stated that a rededication program would occur and this is the best course of action at this time.

Commissioner McCulloh thanked everyone for attending and appreciated the strong interest in the community. She stated that the Auditorium has been neglected to some degree and more needs to be done to preserve the Peace Memorial Auditorium, and to fix up the stage. She stated that if it costs more to get Parks and Recreation offices to City Hall, it will be worth it. She mentioned reading letters from her grandmother several months ago that were written during the Battle of the Bulge. She stated that we need to listen to our history and need to honor the community effort and keep the Auditorium and do both.

GENERAL AGENDA (CONTINUED)

CITY AUDITORIUM EXPANSION (SP1206) (CONTINUED)

Commissioner Reddi thanked everyone for attending and stated that she works with military children and their families as an elementary teacher with USD 383. She provided additional information on the item and stated that we have professionals partnering with Fort Riley and added that USD 383, Kansas State University, and the Manhattan Area Chamber of Commerce have excellent relationships with the military community. She stated that the Historic Resources Board has provided the Commission with its recommendation and that she wanted to look at alternatives that would bring the Parks and Recreation offices into City Hall and to see what can be done with the stage without burdening the taxpayers. She reiterated her appreciation to those that spoke tonight and said that it is with good intentions to do what is in the best interests of the community.

Mayor Matta appreciated the views expressed and extended apologies to Architect Bruce McMillan for what he has been through and for some of the comments made earlier in the meeting. He provided additional information on the item and stated the different opinions and interpretations expressed. He reiterated the language on the plaques of the Peace Memorial Auditorium and stated that this is not what is indicated on the signs around town in regards to a World War II memorial. He stated that the original decision the Commission made on this item was a good decision, provided the best use of the facility, and was the best decision economically. He reiterated that the memorial will not be destroyed and will be a better and more recognizable memorial than it has been in the past.

After discussion and comments from the Commission, Commissioner Butler moved to continue with Bruce McMillan Architects, of Manhattan, Kansas, to complete the final design of the City Auditorium Renovation as previously approved by the City Commission. Mayor Matta seconded the motion. On a roll call vote, motion failed 3-2, with Commissioners McCulloh, Reddi, and Jankovich voting against the motion.

Commissioner McCulloh moved to direct the architect of the Parks and Recreation Expansion project to study alternatives, including renovating the Peace Memorial stage and auditorium, as well as adding on to City Hall with Parks and Recreation offices, in a way that takes into account the historic elements of the facility, before the completion of the design phase of the project. Commissioner Reddi seconded the motion.

After discussion and comments from the Commission, Commissioner Jankovich suggested an amendment to the motion to include keeping in mind the fiscal side on what is proposed and asked to bring back and look at the addition and auditorium alternatives that the Commission initially looked at.

GENERAL AGENDA (CONTINUED)

CITY AUDITORIUM EXPANSION (SP1206) (CONTINUED)

After further discussion, Commissioner Butler stated that if more information is being put together on this item, he also wanted to know how much the Depot is actually costing the Manhattan taxpayer. He asked for information on the costs of the pedestrian underpass, foundation repairs, and the data associated with all the expenses to renovate the Depot.

After additional discussion and comments from the Commission, Commissioner McCulloh stated that the motion as it stands is to direct the architect to study alternatives and is adequate to address the concerns expressed. She said that the Commission has heard from people that want the stage to stay and that it will look at the plans and see what other things can be done. She commented that there are tax burdens associated with this project, but Manhattan is a community and it comes together as a community and support each other with projects that enhances the community. She then requested and moved that the question be called. Commissioner Jankovich seconded the motion. On roll call vote, motion carried 5-0.

Commissioner Jankovich stated that he supported the motion with the understanding the Commission is looking at keeping the fiscal side in focus.

On a roll call vote of the motion, the motion carried 3-2, with Mayor Matta and Commissioner Butler voting against the motion.

Mayor Matta stated hopefully it will not take nine years for the Commission to figure this out.

ADJOURNMENT

At 10:30 p.m., the Commission adjourned.



Gary S. Fees, MMC, City Clerk

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. 1

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. 1

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.

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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.

Attachment No. 1

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.

Attachment No. 1

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:

1. 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.
2. Recommend denial of the proposed rezoning, stating the specific reasons for denial.
3. Table the proposed rezoning to a specific date, for specifically stated reasons.

POSSIBLE MOTION:

The Manhattan Urban Area Planning Board recommends approval of the proposed rezoning of 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

13058

AMENDMENT OF A COMMERCIAL PLANNED UNIT DEVELOPMENT

REQUEST: The applicant/owner has requested an amendment of Ordinance No. 6745 and the approved Preliminary Development Plan of Lot 1, McCall Landing Commercial Planned Unit Development to construct an approximate 16,800 square foot commercial building to expand the existing K-State Super Store south of McCall Road at GTM, and additional retail and retail/service commercial uses. The amendment includes an approximate 43,000 square foot area that will remain undeveloped for future development. The amendment is in the form of a Final Development Plan.

The amendment is necessary because the proposed store replaces the approved Orscheln store (described below in the staff report), which was not implemented by Final Development Plan. The proposed changes are substantial modifications of the original approved Preliminary Development site plan for Lot 1. (Note: When the Final Development Plan for the Menards store on Lot 2, Lot 1 was modified in size as well as removal of the site improvements.)

APPLICANT/OWNER: Dreiling Real Estate – Dave Dreiling.

ADDRESS: The applicant/owner's address is 520 McCall Road, Manhattan, KS 66502.

LEGAL DESCRIPTION: Lot 1, a McCall Landing Commercial Planned Unit Development, to the City of Manhattan, KS.

LOCATION: Lot 1 is located northeast of the intersection of McCall Road and Carlson Place.

AREA: The area of Lot 1 is 3.970 acres or 172,949 square feet.

DATE OF NEIGHBORHOOD MEETING: June 13, 2013.

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

DATE OF PUBLIC HEARING: PLANNING BOARD: Monday, August 19, 2013.
CITY COMMISSION: Tuesday, September 3, 2013.

EXISTING PUD

Ordinance No. 6745, Permitted Uses and Conditions of Approval

Ordinance No. 6745 dated January 6, 2009 is attached. Permitted Uses are set out in Condition No. 1, and all other conditions of approval include:

1. Permitted uses shall include Farm and ranch supply stores such as, but not limited to, Orscheln Farm & Home, with associated outdoor sales, display and storage; Business and professional offices; Restaurants, including drive-in type; Banks and financial institutions, including drive-in type; Convenience stores, without buried storage tanks; Package liquor stores; Retail stores; and, Home improvement centers, including retail sale of general merchandise, lumber yards, landscape and garden products, hardware, appliances and fixtures, carpet, tile and floor coverings, and general home improvement, household and related products, and outdoor sales, display and storage, including lumber yard areas for stores such as, but not limited to, Menards.
2. Outdoor display, storage and sales on Lot 1 shall be limited to the outside sidewalk area along the western side of the Orscheln's building and in the fenced enclosure, as shown on the application documents.
3. Landscaping and irrigation shall be provided pursuant to a Landscaping Performance Agreement between the City and the owner, which shall be entered into prior to issuance of a building permit.
4. All landscaping and irrigation shall be maintained in good condition.
5. Light poles shall be provided as described in the application documents and shall be full cut-off design. Building lighting shall not cast direct light onto public or private streets or adjacent property and shall be full cut-off design.
6. Signage for Lot 1 – Orscheln's shall be constructed as proposed, consisting of wall signs.
7. Signage for Lot 2 and the ground sign on Lot 3 for Menards and other tenants of the PUD shall be constructed as proposed.
8. On all other lots there shall be no more than one (1) pole or ground sign per lot. In addition, pole signs shall have a maximum height of 30 feet above the ground; the total gross surface area of pole and ground signs including reader-boards shall be limited to no more than 1 square foot of sign area per 1 foot of linear street frontage and shall not exceed a maximum 200 square feet in area; all pole signs shall be fully skirted and the skirting and the bases of pole and ground signs shall include materials and architectural quality similar to those of the associated principal building such as brick, stone and/or stucco; and signs shall include a landscaped area around the base.
9. Wall signs on Lots 3 and 4 shall conform to requirements of the C-2, Neighborhood Shopping District of the Manhattan Zoning Regulations.

Attachment No. 2

10. Temporary banner signs shall be limited to no more than one (1) banner sign per lot. Exempt signage shall include signage described in Article VI, Section 6-104 (A)(1),(2),(4),(5),(7) and (8); and Section 6-104 (B)(2), of the Manhattan Zoning Regulations. Temporary sales aids and portable signs, as described in Article VI, Signs, of the Manhattan Zoning Regulations, shall be prohibited.
11. Prior to the development of Lot 3 and Lot 4, an amendment of the PUD shall be submitted and approved, prior to issuance of any necessary permits.
12. Underground liquid fuel storage tanks shall be prohibited in the PUD, and storage of hazardous materials, chemicals and other pollutants, shall be prohibited in the east half of the warehouse.
13. Well head easements shall be designated “No Structures Zone.”
14. A revised drainage plan, consisting of grading and improvements necessary to protect the 50-foot and 100-foot well head areas, shall be submitted with the Final Development Plan. The revised drainage plan shall be approved by the Public Works Department.

Approved Use, Building and Improvements (attachment) on Lot 1.

Orscheln Farm and Ranch

An approximate 50,000 square foot Orscheln Farm and Home super store was approved with the Preliminary Development Plan. Other uses included a 20,000 square foot screened outdoor storage area, as well as outdoor display and proposed storage along the south and west sidewalks adjacent to the building.

The existing Orscheln store was proposed to relocate from its current location on the southwest corner of McCall Road and Enoch Lane. The proposed building was a one-story flat roofed building shown at 22 feet in height, with an exterior of tan aggregate covered metal panels similar in color and material to the McCall Pattern Company. An entry canopy would extend along the west elevation of the building for the majority of the storefront with a covered entry on the south storefront of the building.

To the east of the building was the 20,000 square foot outdoor storage, sales and display area, which would have been enclosed by an approximate nine foot tall black chain link fence with black vertical slats with ten foot split faced block accent columns. The north and south fences were gated for entry and exit to the storage area.

Sidewalk display included smaller lawn and garden plant materials, equipment, tools and supplies, as well as smaller ranch and home supply items. The enclosed area also included large items such as fencing, larger building supplies, water tanks and other larger items.

The remainder of Lot 1 was for off-street parking and landscaped space.

Lot 1 was reduced in area with the Final Development Plan for the Menards store on Lot 2. The Final Plat established the revised lot area of Lot 1 and Lot 2, as well as the dedication of travel easement on the east side of Lot 1, McCullough Place.

PROPOSED AMENDMENT

Proposed Use and Building: The proposed rectangular shaped building has an approximate gross floor area of 16,800 square feet, which is divided into five floor spaces, the largest space devoted to the K-State Super Store located in the center of the building. The building is oriented with store fronts facing south towards McCall Road. The site plan depicts drive-in window stacking lanes for drive-in uses on the east and west sides of the building

The one story building is approximately 21 feet tall to the roofline with a center parapet wall roofline approximately 28 feet in height. Exterior materials are ledge stone and EFIS in shades of light tan, limestone and similar colors. Awnings and canopies are over other store fronts, window and drive-in window pickups.

PROPOSED SIGNS: Proposed signs consist of one, 200 square foot, 30 foot tall pole sign located along McCall Road, and wall signs. Wall signs are based on C-2 District requirements allowing up to 30% of the façade but are shown at less than 30% maximum. Rear wall signs are limited to 40 square feet in area and shown at less than 40 square feet in area.

The pole is enclosed with a rectangular base and exterior materials of ledge stone and EFIS to match the building's colors and materials. The sign is in a landscape base.

PROPOSED LIGHTING: Proposed parking lot lights are full-cutoff fixtures on metal poles. Building lights will accent entrances and provide general security and are full cut-off design.

MATTERS TO BE CONSIDERED WHEN AMENDING A PLANNED UNIT DEVELOPMENT

1. WHETHER THE PROPOSED AMENDMENT IS CONSISTENT WITH THE INTENT AND PURPOSE OF THE APPROVED PUD, AND WILL PROMOTE THE EFFICIENT DEVELOPMENT AND PRESERVATION OF THE ENTIRE PUD: The intent and purpose of the McCall Landing Commercial PUD is to allow a broad range of commercial retail and commercial service uses, including drive-in type restaurants. The applicant states,

Attachment No. 2

“The purpose of the approved McCall Landing PUD was to provide uses suitable for Commercial zoning districts, as listed on the original PUD. The proposed amendment to the McCall Landing PUD which is a multi-purpose building consisting of a sports apparel store, with four other potential tenants (unknown at this time, on Lot 1 will be consistent with the approved PUD.”

2. WHETHER THE PROPOSED AMENDMENT IS MADE NECESSARY BECAUSE OF CHANGED OR CHANGING CONDITIONS IN OR AROUND THE PUD, AND THE NATURE OF SUCH CONDITIONS: The amendment is necessary because the approved site, building and other improvements shown on the approved Preliminary Development Plan for Lot 1 has been abandoned. The proposed uses and improvements are not comparable. In addition, a Final Development Plan was not submitted within two years of the date of approval of the Preliminary PUD for Lot 1, and no additional time was proposed to develop Lot 1. The applicant states,

“The proposed amendment is not due to changed or changing conditions in or around the PUD. This amendment is for further development of the original PUD, consistent with its original intent.”

3. WHETHER THE PROPOSED AMENDMENT WILL RESULT IN A RELATIVE GAIN TO THE PUBLIC HEALTH, SAFETY, CONVENIENCE OR GENERAL WELFARE, AND IS NOT GRANTED SOLELY TO CONFER A SPECIAL BENEFIT UPON ANY PERSON: The amendment will result in a relative gain to the public health, safety, convenience or general welfare because public improvements have been designed and built to accommodate commercial uses and vehicular traffic on improved streets, and pedestrians and bicyclists on sidewalks along McCall Road and on Carlson Place. The proposed amendment has no underground storage tanks associated with it that would adversely impact the water well field areas to the north. No special benefit is granted upon any person as a result of the amendment. The stores will provide opportunity for a broad range of commercial uses.

The applicant states,

“This amendment is not solely for conferring a special benefit upon any person, but in our opinion, will result in a relative gain to the general public by providing services which are in demand by local and out-of-town residents. It should be noted that the initial tenant of the building K-State Superstore (GTM Sportswear) is an expansion of its existing store location, just across the street.”

ADDITIONAL MATTERS TO BE CONSIDERED WHEN AMENDING A PLANNED UNIT DEVELOPMENT

1. LANDSCAPING: Landscaping is a combination of grass areas, deciduous and evergreen trees along public streets, ornamental trees in parking lot islands, ornamental grasses and perennials in parking lots islands and at the base of the ground sign, with the balance grass lawns, all of which will be maintained by in-ground sprinklers. The 43,000 square future building site will be grass, fescue or native, and non-irrigated.

2. SCREENING: Two trash container areas are proposed on the south side of McCall Place north of the stores. Both will be enclosed with six foot masonry walls to compliment with building, and gates.

3. DRAINAGE: A Drainage Study, dated October 3, 2008, was submitted by Schwab-Eaton, P.A. with the Preliminary Development Plan. The PUD is designed to drain, in part, to the south and southeast through on-site storm sewer improvements to storm sewer improvements associated with McCall Road. The majority of the PUD, due to the size of the Menards' site, drains to a detention basin on the east side of PUD, then to McCall Road storm water improvements. The City Engineer reviewed and accepted the 2008 drainage study. Minor changes were made to the drainage plan in 2010 when Menards was built.

Schwab-Eaton submitted an updated storm sewer letter (*attachment dated July 12, 2013*) summarizing the original storm water improvements and changes over the past several years. The letter indicates that, with respect to Lot 1, peak flows from Lot 1 have been slightly reduced due to changes to storm sewer improvements. Lot 1 will drain to storm sewer improvements on site and along McCall Road.

The Manhattan Public Works Department (*attachment dated August 14, 2013*) reviewed the 2013 update from Schwab-Eaton and made the following comments, "The stormwater runoff for this development is part of the overall PUD site drainage plan that has previously been approved by City Staff. The stormwater runoff for the proposed development was accounted for in the original PUD. No detention is required for this development. The proposed development meets city requirements for stormwater management."

4. CIRCULATION: As proposed, vehicle and pedestrian access are safe and efficient.

Attachment No. 2

As a whole, the PUD is accessed off McCall Road from a series of travel easements. Carlson Place is at the center of the PUD connecting to a signalized intersection with McCall Road. McCullough Place is on the east side of the PUD with a right in right out at its intersection with McCall Road. Landing Place, on the west side of the PUD, intersects McCall Road at the southwest corner of Lot 4, and is a right-in right-out. McCall Place is an east to west travel easement north of Lots 1, 3, and 4, and the south and Lot 2 (Menards). The Preliminary PUD also shows a future travel easement intended to extend to the west from the western boundary of the PUD. A travel easement extending east of McCullough Place is also shown on the proposed Lot 1 amendment. Both projected travel easements to east and west properties are intended to create an internal street, or reverse frontage road, to reduce curb cuts onto McCall Road.

Internal Access

Access to Lot 1 will be from Carlson Place and McCall Place. The Carlson Place curb cut is located approximately 315 feet north of the intersection of existing Carlson Place and McCall Road. The second curb cut is off McCall Place in the northeastern corner of Lot 1.

Internal circulation is to the front of the store from driving aisles connecting to the curb cuts. Drive-in stacking for the western drive-in window is along the north side of the building, with the eastern drive-in accessed from the southwest corner area of the building and parking lot. Stacking lanes are depicted with lanes showing adequate internal space for vehicles.

Sidewalks and Pedestrian Circulation

A sidewalk was constructed along the east side of Carlson Place and along both sides of McCall Road with a 10-foot wide sidewalk on the north side of McCall for pedestrian and bicyclists. A pedestrian connection from the Carlson Place sidewalk connects the storefront sidewalk to the street sidewalk.

No sidewalk was required on McCullough Place. When the 43,000 square foot area is developed it may be appropriate to reconsider sidewalks on McCullough Place and McCall Place, in light of the possible extension of a possible travel easement to the east. Sidewalk extension from McCall Road to the future building site area will also be provided when the 43,000 square foot space is developed.

A bike rack is shown at the southeast corner of the building.

Off-street parking

The proposed number of off-street parking is based on the gross square feet of floor area using the shopping center ratio of 5.5 parking spaces per 1,000 square feet of floor area. Based on gross floor area, 16,800 square feet, 93 off-street parking spaces would be required. Floor area devoted to storage, restrooms, mechanical rooms would reduce the total floor space and the net demand may be less. The 93 parking spaces are proposed south of the building with an additional 24 optional parking spaces in the northeast corner of Lot 1, or 117 total off-street parking spaces. More than adequate parking is provided with the expectation that some of the 117 parking spaces may apply to the future building site, a 43,000 square foot space on the east side of the Lot 1. The 24 parking spaces may also be used for game day over flow parking.

Traffic Study

The original Traffic Impact Study, dated January 2008, Revised October 2008, was submitted by Schwab-Eaton P.A and accepted by the Public Works Department. An update to the original Traffic Impact Study, dated July 5, 2013 (*attached*) was submitted by Schwab-Eaton.

The Manhattan Public Works Department (*attachment dated August 14, 2013*) reviewed the 2013 update from Schwab-Eaton and made the following comments,

“The traffic impact study update was performed by Schwab Eaton. This update concludes that the trips generated by this PUD amendment would not cause the overall site to exceed the trip generation already accounted for in the original traffic impact study.

The original traffic study for the PUD included a trip generation based on assumptions of what each lot would be developed into. This study and its recommendations were accepted by the City. This current amendment to the original PUD changes the use from the original assumption for what would go into Lot 1, a lower trip generating development, to a development with a higher trip generation. However, the total number of generated trips from the original PUD traffic study have not been exceeded, primarily because the other lots have not yet been developed. It was not stipulated in the original PUD application that each lot was tied to a certain use. Because of this, a shift in trip generation from one lot to the next within the same PUD is acceptable as long as the total trip generation for the PUD does not exceed what has already been accepted.

It needs to be noted that this PUD amendment, which will account for a larger share of the total trips generated by the PUD, will have an impact on the future development of the other lots within the PUD. In order for these lots to be developed for uses as originally assumed, the total trip generation for the PUD may be exceeded and trigger a larger, more

in-depth revision to the traffic impact study. To avoid this, the lots may have to be developed with a different use, one with a lower trip generation than what was originally assumed.

Given this, the Engineering Division has found the traffic impact of this PUD amendment to be acceptable and to not have a significant impact on the existing roadway network.”

5. OPEN SPACE/LANDSCAPED AND COMMON AREA: Approximately 24% of Lot 1 is open grass area for the future building site. Landscaped space, outside of the 43,000 square foot area, is approximately 10% of the site.

6. CHARACTER OF THE NEIGHBORHOOD: McCall Road corridor from the intersection of US 24 Highway to the intersection with Tuttle Creek Boulevard is a mix of industrial manufacturing and research uses, as well as commercial and highway commercial uses. Several of the uses allowed in the I-2 District, such as health and fitness centers and self storage units, are also allowed in the commercial retail and highway service district.

MATTERS TO BE CONSIDERED WHEN REZONING

1. EXISTING USE: Lot 1 is a vacant commercial tract of land approved for an Orscheln’s store.

2. PHYSICAL AND ENVIRONMENTAL CHARACTERISTICS: Grass covered tract located in the 100 Year Floodplain. The site is lower than the surrounding streets and Menards’ site because those areas were elevated in 2010. The site is the natural grade before fill is added.

Lot 1 is currently in the 100 Year Flood Plain, Zone AH, Base Flood Elevation (BFE) 1008 feet. The proposed building’s lowest floors must be elevated or flood proofed water tight to one foot above the BFE, or to 1009 feet NGVD. The proposed lowest floor is shown at 1010 feet, or two feet above BFE. An application to fill the site was submitted to the Kansas Division of Water Resources to fill the site. DWR has extended approval of the permit through July 1, 2015.

Proposed Preliminary Floodplain Maps, adoption date in 2014, remove Lot 1 from Zone AH, and will designate the tract Zone X, Protected By Levee. Flood plain requirements for elevation will not apply under the proposed map designation.

3. SURROUNDING LAND USE AND ZONING:

Attachment No. 2

(a.) **NORTH:** Menards home improvement store, City water well fields, Levee Drive: Commercial PUD, and I-2 District.

(b.) **SOUTH:** McCall Road, farm and ranch supply store, GTM manufacturing and Super Store, research facilities, car wash, self storage facilities, automobile sales and service; C-5, Highway Service Commercial District and I-2 District.

(c.) **EAST:** McCall Pattern Company; I-2 District.

(d.) **WEST:** Self storage, business office, and contractors; I-2 District.

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

5. SUITABILITY OF SITE FOR USES UNDER CURRENT ZONING: The site is suitable for commercial development subject to the requirements of the Manhattan Zoning Regulations, Article IX, Planned Unit Development Districts, and Ordinance No. 6745.

6. COMPATIBILITY OF PROPOSED DISTRICT WITH NEARBY PROPERTIES AND EXTENT TO WHICH IT MAY HAVE DETRIMENTAL AFFECTS: Lot 1 is in a commercial growth corridor and its development as a commercial site should be compatible with the surrounding neighborhood. Minimal impact on property along the corridor is expected. The proposed development is consistent with the commercial character of the approved PUD.

Fifty foot well head protection zones around City well heads are along the northern boundary of the PUD, and extend partially in the PUD but do not extend near Lot 1. No underground liquid fuel storage tanks will be allowed in the PUD. No underground liquid storage is proposed.

7. CONFORMANCE WITH COMPREHENSIVE PLAN: Lot 1 is in the Northeast Planning Area of the Future Land Use Map of the Comprehensive Plan. The site is shown as Industrial (IND) on the map. The proposed amendment would implement a development generally consistent with the policies applicable to all commercial development, as well as policies applicable to Community Commercial. The PUD was found in general conformance to the Comprehensive Plan in 2009. The amendment is in conformance with the approved PUD and Comprehensive Plan.

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

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- 1968 Annexation and rezoning to I-3, Light Industrial District.
- 1969-2008 Rezoned from I-3 District, to I-2, Industrial Park District.
- April 21, 2008 Manhattan Urban Area Planning Board conducts the public hearing and recommends approval of the proposed rezoning of McCall Landing from I-2, Industrial Park District to PUD, Commercial Planned Unit Development District, with 15 conditions of approval.
- May 6, 2008 City Commission approves first reading of an ordinance rezoning McCall Landing from I-2, Industrial Park District, to PUD, Commercial Planned Unit Development District.
- May 20, 2008 City Commission approves Ordinance No. 6700 rezoning McCall Landing from I-2, Industrial Park District, to PUD, Commercial Planned Unit Development District.
- November 17, 2008 At the request of the applicant, Manhattan Urban Area Planning Board tables the public hearing of the proposed rezoning of the revised McCall Landing PUD from PUD, Commercial Planned Unit Development District to PUD, Commercial Planned Unit Development District.
- December 1, 2008 Manhattan Urban Area Planning Board conducts the public hearing and recommends approval of the proposed rezoning of the revised McCall Landing PUD from PUD, Commercial Planned Unit Development District to PUD, Commercial Planned Unit Development District, with 14 conditions of approval.
- December 16, 2008 City Commission approves first reading of an ordinance rezoning the revised McCall Landing PUD from PUD, Commercial Planned Unit Development District to PUD, Commercial Planned Unit Development District.
- January 6, 2009 City Commission approves Ordinance No. 6745 rezoning the McCall Landing PUD from PUD, Commercial Planned Unit Development District to a new PUD, Commercial Planned Unit Development District.

April 5, 2010 Manhattan Urban Area Planning Board approves the Final Development Plan (Lot 2 – Menards, and Lots 1, 3 and 4 – future amendments) and Final Plat of the McCall Landing Addition Commercial Planned Unit Development.

April 20, 2010 City Commission accepts the easements and rights-of-way of the Final Plat of the McCall Landing Addition Commercial Planned Unit Development; and, authorizes the Mayor and City Clerk to execute the Agreement regarding construction and maintenance of the storm water facilities and travel easements.

Lot 1 has remained vacant since annexation in 1968.

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 amendment conforms to the approved PUD and the uses permitted in McCall Landing Commercial PUD.

10. RELATIVE GAIN TO THE PUBLIC HEALTH, SAFETY AND WELFARE THAT DENIAL OF THE REQUEST WOULD ACCOMPLISH, COMPARED WITH THE HARDSHIP IMPOSED UPON THE APPLICANT: There appears to be no relative gain to the public, which denial would accomplish. The proposed commercial building on Lot 1 must be elevated at least one foot above BFE and proposed two feet above BFE. McCall Road was upgraded to a five lane urban section with curb and gutter, sidewalks, storm sewer improvements and traffic signal at Carlson Place and McCall Road.

11. ADEQUACY OF PUBLIC FACILITIES AND SERVICES: LOT 1 CAN BE SERVED BY PUBLIC IMPROVEMENTS, INCLUDING STREET, WATER, FIRE SERVICE AND SANITARY SEWER. MCCALL ROAD WAS UPGRADED TO A FIVE LANE SECTION OF ARTERIAL STREET, WHICH CONSISTS OF FOUR THROUGH LANES, A CENTER TURN LANE, CURB AND GUTTER, STORM WATER IMPROVEMENTS AND SIDEWALKS ON BOTH SIDES OF THE STREET.

SIXTEEN FOOT WIDE SANITARY SEWER AND WATER UTILITY EASEMENTS FOR ARE SHOWN ON THE SITE PLAN, GENERALLY ON THE NORTH (SANITARY SEWER LINE) AND SOUTH (WATER LINE) SIDES OF THE BUILDING. THE EASEMENTS SHALL BE FILED WITH THE POTTAWATOMIE COUNTY REGISTER OF DEEDS PRIOR TO ISSUANCE OF THE BUILDING PERMIT.

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

13. STAFF COMMENTS: City Administration recommends approval of a proposed amendment of Ordinance No. 6745 and the approved Preliminary Development Plan of Lot 1, McCall Landing Commercial Planned Unit Development, to be known as the Final Development Plan of Lot 1, McCall Landing Commercial Planned Unit Development, with the following conditions of approval:

1. Prior to development of the 43,000 square foot future building site on Lot 1, and amendment of the Lot 1 shall be approved.
2. Sidewalks and pedestrian connection(s) to public streets shall be considered with the future building site amendment of Lot 1.
3. **PROPOSED SIXTEEN (16) FOOT WIDE UTILITY EASEMENTS SHALL BE FILED WITH THE POTTAWATOMIE COUNTY REGISTER OF DEEDS, PRIOR TO ISSUANCE OF THE BUILDING PERMIT.**

ALTERNATIVES:

1. Recommend approval of the proposed amendment of Ordinance No. 6745 and the approved Preliminary Development Plan of Lot 1, McCall Landing Commercial Planned Unit Development, to be known as the Final Development Plan of Lot 1, McCall Landing Commercial Planned Unit Development, stating the basis for such recommendation.
2. Recommend denial of the proposed amendment of Ordinance No. 6745 and the approved Preliminary Development Plan of Lot 1, McCall Landing Commercial Planned Unit Development, to be known as the Final Development Plan of Lot 1, McCall Landing Commercial Planned Unit Development, stating the specific reasons for denial.
3. Table the proposed Amendment to a specific date, for specifically stated reasons.

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POSSIBLE MOTION:

The Manhattan Urban Area Planning Board recommends approval of the proposed Ordinance No. 6745 and the approved Preliminary Development Plan of Lot 1, McCall Landing Commercial Planned Unit Development, to be known as the Final Development Plan of Lot 1, McCall Landing Commercial Planned Unit Development, based on the findings in the Staff Report, subject to the three conditions of approval recommended by City Administration.

PREPARED BY: Steve Zilkie, AICP, Senior Planner.

DATE: August 14, 2013.

13063}SR}Lot1McCallLandingPUDAmendment