

MINUTES
CITY COMMISSION MEETING
TUESDAY, OCTOBER 1, 2013
7:00 P.M.

The Regular Meeting of the City Commission was held at 7:00 p.m. in the City Commission Room. Mayor John E. Matta and Commissioners Wynn Butler, Karen McCulloh, Usha Reddi, and Richard B. Jankovich were present. Also present were the City Manager Ron R. Fehr, Deputy City Manager Jason Hilgers, City Attorney Bill Raymond, City Clerk Gary S. Fees, 8 staff, and approximately 35 interested citizens.

PLEDGE OF ALLEGIANCE

Mayor Matta led the Commission in the Pledge of Allegiance.

PROCLAMATIONS

Mayor Matta proclaimed October 6-12, 2013, ***Fire Prevention Week***. Rick Stillwagon, Fire Marshal, and Lou Kaylor, Lieutenant, were present to receive the proclamation.

Mayor Matta proclaimed October 2013, ***Cyber Security Awareness Month***. Marilyn Mahan, Vice President of Instructional Services; Ben Eckart and Derek Payne, Information Network Technology Instructors; and Whitney Lancaster and Nicholas Fehr, Students, Manhattan Area Technical College, 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 McCulloh informed the community that Thursday, October 10, 2013, is the second annual Okt-FLU-ber Festival at the Riley County Health Department where the public will receive a flu shot and a free pumpkin. She stated that an individual cannot catch the flu from a flu shot and that there are individuals who are not able to receive a flu shot due to medical issues. She encouraged those that can to get a flu shot.

CONSENT AGENDA

(* denotes those items discussed)

MINUTES

The Commission approved the minutes of the Regular City Commission Meeting held Tuesday, September 17, 2013.

CLAIMS REGISTER NO. 2741

The Commission approved Claims Register No. 2741 authorizing and approving the payment of claims from September 11, 2013, to September 24, 2013, in the amount of \$1,858,111.16.

ORDINANCE NO. 7039 – AMEND – MAINTENANCE OF DRAINAGE EASEMENTS

The Commission approved Ordinance No. 7039 amending Sections 32-186 and 32-187 of the Code of Ordinances of the City of Manhattan, Kansas, relating to the maintenance of Drainage Easements.

ORDINANCE NO. 7040 – ADOPT – 2013 STANDARD TRAFFIC ORDINANCE

The Commission approved Ordinance No. 7040 incorporating by reference the Standard Traffic Ordinance for Kansas Cities, Edition of 2013.

FIRST READING – AGGIEVILLE BUSINESS IMPROVEMENT DISTRICT – 2014 SERVICE FEES

The Commission approved first reading of an ordinance continuing the establishment of the Aggieville Business Improvement District and levying Business Improvement Service Fees, for the year 2014, on businesses located within the District.

CONSENT AGENDA (CONTINUED)

FIRST READING – DOWNTOWN BUSINESS IMPROVEMENT DISTRICT – 2014 SERVICE FEES

The Commission approved first reading of an ordinance continuing the establishment of the Downtown Business Improvement District and levying Business Improvement Service Fees, for the year 2014, on businesses located within the District.

FIRST READING – ESTABLISH – MCDONALD’S TRANSPORTATION DEVELOPMENT DISTRICT

The Commission approved first reading of an ordinance establishing the McDonald’s Transportation Development District.

* **AWARD CONTRACT/ENGINEERING SERVICES – OLD BLUE RIVER CHANNEL STORMWATER IMPROVEMENTS, PHASES III AND IV (SM1106)**

Commissioner Jankovich announced that he had a business conflict of interest and would abstain from voting on the item.

The Commission accepted the Engineer’s Opinion of Probable Cost in the amount of \$1,610,670.00; awarded a construction contract, in the amount of \$1,542,059.75 with R.M. Baril General Contractor, Inc., of Manhattan, Kansas, subject to concurrence of Kansas Department of Transportation (KDOT); authorized the Mayor and City Clerk to execute the contract; and authorized City Administration to finalize and the Mayor and City Clerk to execute a three party agreement with BG Consultants, Inc., of Manhattan, Kansas, and KDOT for construction engineering services in the amount of \$130,068.00 for the Old Blue River Channel Stormwater Improvements, Phases III and IV (SM1106).

FIRST READING – ISSUE TEMPORARY NOTES - OLD BLUE RIVER CHANNEL STORMWATER IMPROVEMENTS, PHASES III AND IV (SM1106)

The Commission approved first reading of an ordinance issuing bonds to pay for a portion of the City’s 35% share (\$366,772.57 to be paid from the Stormwater Funds over a four year period through issuance of temporary notes) of the Old Blue River Channel Stormwater Improvements, Phases III and IV (SM1106).

CONSENT AGENDA (CONTINUED)

AWARD CONTRACT – HOUSING REHABILITATION PROJECT – 708 TUTTLE STREET

The Commission accepted the bids for 708 Tuttle Street; awarded a contract for the base bid only in the amount of \$8,288.00 to the lowest responsible bidder Ben Kitchens Painting, Co. Inc., of Junction City, Kansas; authorized the Mayor and City Clerk to enter into agreements with the contractor and property owner for expenditure of Housing Rehabilitation Funds; and authorized City Administration to approve any necessary change orders.

* BOARD APPOINTMENTS

Commissioner Jankovich asked about Chuck Henderson's application and his comments about being bugged by another member of the Social Services Advisory Board (SSAB). He stated that he wanted to make sure this is something the Mayor and the applicant are comfortable with.

Mayor Matta stated that he was and that he encouraged other members of boards and committees to encourage others to submit applications. He said Mr. Henderson has a sense of humor that was used in the application and that he also felt that service to the community was something he should do.

Commissioner McCulloh stated that she was disappointed with the application and that there was not a listing of other activities or boards that he was involved with. She said the Commission needs to look for more diversity on boards and committees and stated that she could not support this nomination.

Commissioner Butler stated that other applications are needed in order to have more diversity. He said that SSAB currently has vacancies and encouraged individuals interested in serving on SSAB or other boards to please send in applications.

Commissioner Reddi stated that she thought there were several applications received that have not been tapped into.

Mayor Matta stated that when looking at applications, he uses his judgment and will sometimes call the applicant or they will sometimes call him. He said that he uses all those factors when deciding on appointments.

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

CONSENT AGENDA (*CONTINUED*)

* **BOARD APPOINTMENTS (*CONTINUED*)**

Parks and Recreation Advisory Board

Appointment of Ed Klimek, 2928 Gary Avenue, to fill the unexpired term of Oscar Montenegro. Mr. Klimek's term begins immediately, and will expire June 30, 2016.

* *Social Services Advisory Board*

Appointment of Chuck Henderson, 2008 Somerset Square, to fill the unexpired term of Robert W. Smith. Mr. Henderson's term begins immediately, and will expire June 30, 2014.

After discussion and comments from the Commission, Commissioner Jankovich moved to approve the consent agenda. Commissioner Reddi seconded the motion. On a roll call vote, motion carried 5-0, with the exception of Item G, AWARD CONTRACT/ENGINEERING SERVICES – OLD BLUE RIVER CHANNEL STORMWATER IMPROVEMENTS, PHASES III AND IV (SM1106), which carried 4-0-1, with Commissioner Jankovich abstaining on the item; and with the exception of Item I, BOARD APPOINTMENT TO THE SOCIAL SERVICES ADVISORY BOARD, which carried 3-2, with Commissioners McCulloh and Reddi voting against the item.

GENERAL AGENDA

FIRST READING – REZONE - MANHATTAN AREA TECHNICAL COLLEGE

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

After discussion, Commissioner Jankovich moved to approve first reading of an ordinance rezoning Manhattan Area Technical College, generally located between Seth Child Road, Wreath Avenue, Lundin Drive, and Dickens Avenue, from R, Single-Family Residential District, to U, University District, based on the findings in the Staff Report (*See Attachment No. 1*) and the recommendation of the Planning Board. Commissioner Butler seconded the motion. On a roll call vote, motion carried 5-0.

FIRST READING - AMEND FINAL DEVELOPMENT PLAN - FIRST NATIONAL BANK COMMERCIAL PLANNED UNIT DEVELOPMENT

Eric Cattell, Assistant Director for Planning, presented an overview of the item. He then responded to questions from the Commission regarding the availability of adequate parking and amending the Final Development Plan.

GENERAL AGENDA (*CONTINUED*)

FIRST READING - AMEND FINAL DEVELOPMENT PLAN - FIRST NATIONAL BANK COMMERCIAL PLANNED UNIT DEVELOPMENT (*CONTINUED*)

After discussion and comments from the Commission, Commissioner McCulloh moved to approve first reading of an ordinance amending Ordinance No. 3947 and the Final Development Plan of Lot 1, First National Bank Addition Commercial Planned Unit Development, generally located northwest of the intersection of Denison Avenue and Claflin Road, based on the findings in the Staff Report (*See Attachment No. 2*), with the six conditions of approval recommended by City Administration and the Planning Board. Commissioner Jankovich seconded the motion. On a roll call vote, motion carried 5-0.

FIRST READING - ASSESS TECHNOLOGY FEE; AGREEMENT - SOFTWARE SYSTEM UPGRADE AND ANNUAL MAINTENANCE PROVISIONS FOR MUNICIPAL COURT

Bill Raymond, City Attorney, presented background information on the proposed software system upgrade and annual maintenance for Municipal Court. He also provided information on the technology fee and the proposed charter ordinance.

Kassie McEntire, City Prosecutor, responded to questions from the Commission and provided additional information on the capability of the Tyler Technology system to integrate with the Riley County Police Department's (RCPD) technology.

Bill Raymond, City Attorney, provided clarification on the proposed technology fee. He then responded to questions from the Commission regarding the rationale to exclude parking ticket fees from the technology fee.

Ron Fehr, City Manager, provided additional information on the item and the proposed technology fee.

Bill Raymond, City Attorney, presented information on the charter ordinance process and provided additional information on the proposed technology fee. He responded to questions from the Commission regarding associated costs for the installation and secured server provided and hosted by Tyler Technologies.

Kassie McEntire, City Prosecutor, responded to questions from the Commission regarding compliance with federal and state regulations. She also discussed the importance to integrate the system with RCPD.

Bill Raymond, City Attorney, and Kassie McEntire, City Prosecutor, responded to questions from the Commission regarding the initial investment being proposed and potential savings.

GENERAL AGENDA (CONTINUED)

FIRST READING - ASSESS TECHNOLOGY FEE; AGREEMENT - SOFTWARE SYSTEM UPGRADE AND ANNUAL MAINTENANCE PROVISIONS FOR MUNICIPAL COURT (CONTINUED)

After discussion and comments from the Commission, Ron Fehr, City Manager, informed the Commission that an analysis of the potential savings and efficiencies can be provided at second reading.

Kassie McEntire, City Prosecutor, responded to additional questions from the Commission on the current process with RCPD. She stated that RCPD has stopped electronically ticketing almost completely, but the electronic tickets could be submitted and would flow into the City's system.

After additional discussion and comments from the Commission, Commissioner Jankovich moved to authorize the Mayor to execute the agreement with Tyler Technologies, Inc., of Lubbock, Texas, in the amount of \$83,533.00 the first year and \$40,232.00 in subsequent years for the municipal court case management software system, for a total term of five (5) years; and approve the first reading of a Charter Ordinance creating a technology fee assessment against defendants in all municipal court cases, with the exception of parking violations. Commissioner Reddi seconded the motion. On a roll call vote, motion carried 5-0.

ADJOURNMENT

At 7:54 p.m., the Commission adjourned.



Gary S. Fees, MMC, City Clerk

**STAFF REPORT
REZONE MATC**

APPLICATION: The application is a request to rezone the Manhattan Area Technical College (MATC) campus located north of Dickens Avenue, south of Lundin Drive, East of Wreath Avenue, and west of Seth Child Road.

The applicant indicates in its Wikipedia page that, “Manhattan Area Technical College was established in 1965 by statute under the Kansas Board of Education and named Manhattan Area Vocational Technical School. Programs were offered on the campus of Manhattan High School until the current campus located at 3136 Dickens Ave was completed in 1967. The school was renamed Manhattan Area Technical Center in 1992 and continued under that name until 1996, when legislation passed in 1994 allowed vocational/technical schools to apply for recognition as a college. In 1996, Kansas Governor Bill Graves signed into law Kansas House Bill 2606, which designated the school Manhattan Area Technical College. In 2004, the College separated from the local united school district (USD 383) and became a stand-alone public institution. Dr. Rob Edleston was hired as the College's first President and Chief Executive Officer under the newly formed, autonomous, Board of Directors. In 2007, the school earned accreditation through the Higher Learning Commission of the North Central Association of Colleges and Schools and has since been reaccredited until 2020-2021.”

FROM: R, Single-Family Residential District.

TO: U, University District.

APPLICANT: Robert J. Edleston, President and CEO of MATC.

ADDRESS: Manhattan Area Technical College.

OWNER: Manhattan Area Technical College Board of Directors.

ADDRESS: Manhattan Area Technical College.

LEGAL DESCRIPTION: The MATC campus is an unplatted tract of land generally located in Section 11.

LOCATION: The MATC campus is generally located north of Dickens Avenue, south of Lundin Drive, east of Wreath Avenue, and west of Seth Child Road.

AREA: The MATC campus is approximately 20 acres in area.

DATE OF NEIGHBORHOOD MEETING: July 22, 2013.

DATE OF PUBLIC NOTICE PUBLICATION: Thursday, August 15, 2013.

DATE OF PUBLIC HEARING: PLANNING BOARD: Thursday, September 5, 2013.

CITY COMMISSION: Tuesday, October 1, 2013.

THIRTEEN MATTERS TO BE CONSIDERED WHEN REZONING

1. EXISTING USE: The existing use of the approximate 20 acre is the MATC campus, a vocational technical school offering a curriculum of automotive, business, computer, building trades, computer networking, CAD, electrical and power distribution (including outdoor practical labs), dental hygiene, as well as administrative and maintenance buildings, lab and classroom buildings and outdoor lab space, off-street parking lots, open landscaped lawns, and a natural/recreation area with pedestrian walkways and other amenities.

2. PHYSICAL AND ENVIRONMENTAL CHARACTERISTICS: The MATC campus is bounded on the north by Lundin Drive, a local street serving an apartment complex; on the south by Dickens Avenue, a collector street; on the east by Seth Child Road, an arterial street; and, on the west by Wreath Avenue, a collector street. Existing off-street parking and buildings are generally located in the western part of the campus, with the eastern part open space. In the eastern part of the site is an open/recreation area, in which there are large mature trees. A dense row of evergreens, about 550 feet in length, is along the middle portion of the northern boundary of the site. The site slopes primarily to the southeast corner of the campus with storm water directed to a box culvert crossing under Seth Child Road into an improved concrete system, also known as the Virginia-Nevada tributary, and into Wildcat Creek.

3. SURROUNDING LAND USE AND ZONING:

NORTH: Lundin Drive, a local public street, and multiple-family apartments complexes; R-3, Multiple-Family Residential District.

SOUTH: Dickens Avenue, a collector street, single-family and two-family dwelling units; R District, and R-2, Two-Family Residential District.

EAST: Seth Child Road, a four lane arterial street, single-family dwelling units east of Seth Child ; R District.

WEST: Wreath Avenue, a collector street; CICO Park, playground, swimming pools, park and active

4. GENERAL NEIGHBORHOOD CHARACTER: The character of the neighborhood in which the MATC campus is located is generally characterized as an established residential neighborhood which developed along with the MATC campus since 1965, and consists of apartment complexes, single-family and two-family residential homes, a large public park, all of which is accessed from a surrounding street network consisting of a major arterial street, Seth Child Road, which provides through traffic movements to residential, commercial and other areas within and outside the City, and collector streets, which provide traffic movements between the arterial street and local streets.

5. SUITABILITY OF SITE FOR USES UNDER CURRENT ZONING: The MATC campus is currently zoned R, Single-Family Residential District, a zoning district designed to provide a single-family dwelling zone at a density no greater than one dwelling unit per 10,000 square feet. Schools are a permitted use in the R District. School is defined in the Manhattan Zoning regulations and means, "Any public or private facility which conducts regular classes pre-K through 12, or any portion thereof, and which meets the minimum educational standards set forth by the State of Kansas. In addition, school shall also include any publicly owned or operated vocational-technical institution. The term "School" shall not include Group Day Care Centers." MATC is a publicly owned and operated vocational-technical institution and is a permitted use in the R District.

6. COMPATIBILITY OF PROPOSED DISTRICT WITH NEARBY PROPERTIES AND EXTENT TO WHICH IT MAY HAVE DETRIMENTAL AFFECTS: The MATC campus has been part of the neighborhood since 1965 and has evolved from an extension of USD 383. The existing campus is compatible with nearby neighborhoods and has developed as a part of the neighborhood. Since 1987, the MATC campus has, "...earned accreditation through the Higher Learning Commission of the North Central Association of Colleges and Schools and has since been reaccredited until 2020-2021." The school is a permitted use in the current R District and may develop its campus guided by the Manhattan Area Technical College Master Plan dated December 2012.

The campus will be subject to the proposed U District requirements such as building setback, which is a minimum 50 feet from any lot line, as opposed to the R District's minimum front yard setback of 25 feet and its rear or side yard setbacks of 15 feet. Estimation of setbacks for existing structures along the front lot line adjoin Lundin Drive appear to be approximately 45 feet from the front lot line; no closer than approximately 110 feet from Wreath Avenue; no closer than approximately 118 feet from Dickens Avenue; no closer than 475 feet to Seth Child Road. Accessory structures maybe as close as 25 feet to a front lot line. The MATC campus will be required to provide off-street

Attachment No. 1

parking as new buildings are constructed, provide a minimum 25 foot setback for parking, as well as screening of parking and landscaping along public streets, with new construction, and meet other requirements of the Manhattan Zoning Regulations, such as lighting, which must be directed away from residential properties and street rights-of-ways so as not to interfere with the residential use or street. Existing parking is estimated at 50 feet from Dickens Avenue and 25 feet along Wreath Avenue, except that in the northwest corner of the campus, the Manhattan Board of Zoning Appeals granted an Exception in 2011 to reduce the front yard setback from 25 feet to nine feet along Lundin Drive and to ten feet along Wreath Avenue for a new off-street parking lot. In general, the U District will impose stricter regulations than the R District, which will allow the MATC campus to develop in a manner compatible with the neighborhood.

7. CONFORMANCE WITH COMPREHENSIVE PLAN: The MATC campus is shown on the Northwest Planning Area Future Land Use map as Public/Semi-Public. Public and semi-public land uses include schools, government offices, community centers, fire stations, airports, libraries, hospitals, cemeteries, churches, and other places of worship.

Manhattan Area Technical College is a public school and has recently created a campus master plan, Manhattan Area Technical College Master Plan December 2012, to guide the growth and development of the campus. In the Campus Plan introduction states, *“The purpose of this document is to present the results of a study of the current facilities at Manhattan Area Technical College, and to recommend facility improvements, modifications, additions and land-use planning considerations on campus over the next approximately twenty years in phased increments to continue to keep MATC on pace to continue their progressive growth within various fields of technical education.”* The college’s campus plan is a small scale neighborhood master plan for the long term growth of the campus. It is not a Land Use Element of the Comprehensive Plan such as the Grand Mere Community Master Plan, but a vision for MATC (*Campus Master Plan Site Plan and Open Space and Pedestrian and Bicycle Circulation Plan maps attached.*)

The proposed rezoning of the MATC campus to U District conforms to the Comprehensive Plan.

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

- 1965 – Annexation
- 1969 – Present R District

The Riley County GIS web page notes buildings were constructed beginning in 1967, with building permits issued over the next 30 years through 2011.

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 University District is designed to permit the establishment of uses normally associated with a University, or other educational institution, and to give these activities more flexibility than within other districts, while providing a landscaped buffer from adjoining zoning districts and public streets.

The U District's minimum district size is five acres and the campus is approximately 20 acres. The U District must be adjacent to a collector or arterial street. The MATC campus is adjacent to Dickens and Wreath Avenues, both of which are collectors, and Seth Child Road, an arterial. Other zoning restrictions are set out in the attached U District requirements. There are no minimum lots coverage or height requirements reflecting the flexibility described in the U District intent above. Off-street parking must be provided in compliance with Article VII, Off-Street Parking and Loading, of the Manhattan Zoning Regulations. The current R District requirements are attached for comparison.

The proposed rezoning of the MATC campus is consistent with the intent of the U District and Manhattan Zoning Regulations.

10. RELATIVE GAIN TO THE PUBLIC HEALTH, SAFETY AND WELFARE THAT DENIAL OF THE REQUEST WOULD ACCOMPLISH, COMPARED WITH THE HARDSHIP IMPOSED UPON THE APPLICANT: The public health, safety and welfare should not be adversely affected and there appears to be no gain to the public that denial would accomplish. The MATC campus has been part of the established neighborhood since 1965 and has grown along with the neighborhood. There are no current reports or history that the campus has adversely impacted the public. It may be a hardship to the applicant if the rezoning is denied because there are no apparent adverse affects on the public.

11. ADEQUACY OF PUBLIC FACILITIES AND SERVICES: Adequate public services and facilities are available to serve the MATC campus.

12. OTHER APPLICABLE FACTORS: No other factors are applicable.

13. STAFF COMMENTS: City Administration recommends approval of the proposed rezoning of the Manhattan Area Technical College campus from R, Single-Family Residential District, to U, University District, based on the findings in the Staff Report.

ALTERNATIVES:

1. Recommend approval of the proposed rezoning of the Manhattan Area Technical College campus from R, Single-Family Residential District, to U, University 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 the Manhattan Area Technical College campus from R, Single-Family Residential District, to U, University District, based on the findings in the Staff Report.

PREPARED BY: Steve Zilkie, AICP, Senior Planner.

DATE: August 30, 2013

13070

AMENDMENT OF A COMMERCIAL PLANNED UNIT DEVELOPMENT

APPLICANT/OWNER: Craig Sloan

ADDRESS: The applicant/owner's address is P.O. Box 577, Sharon Springs, KS.

REQUEST: The applicant/owner has requested an amendment of Ordinance No. 3974 for the First National Bank, Commercial Planned Unit Development (PUD). The proposed amendment is to allow the change of the permitted uses to include educational, cultural, and religious institutions and their associated activities; and, multiple family dwellings. The amendment is in the form of a Final Development Plan. No substantial modifications are proposed to the structures within the Commercial PUD.

LEGAL DESCRIPTION AND SUBJECT SITE: Lot 1, First National Bank Center Addition.

(Note: Lot 2 in the PUD is Dara's Fast Lane convenience store, and is not included in the amendment)

LOCATION: 1800 Claflin Road.

AREA: 45,312 square feet (1.03 acres)

DATE OF NEIGHBORHOOD MEETING: July 17, 2013.

DATE OF PUBLIC NOTICE PUBLICATION: Thursday, August 15, 2013.

DATE OF PUBLIC HEARING: PLANNING BOARD: Thursday, September 5, 2013.

CITY COMMISSION: Tuesday, October 1, 2013.

EXISTING PUD

Ordinance

Ordinance No. 3974 was approved on July 20, 1982. The Ordinance rezoned the property from R-3, Multiple-Family Residential, U, University District, and C-2, Neighborhood Shopping Center District to PUD, Commercial Planned Unit Development District.

The Ordinance documents did not specifically list permitted uses or conditions of approval. The staff report for the rezoning listed seven (7) conditions of approval. The Manhattan Urban Area Planning Board recommended approval of the rezoning of the subject site to PUD with the seven (7) conditions. The conditions of approval are:

Attachment No. 2

1. Parking spaces should be set back a minimum of 18' from the property line at the northeast entrance.
2. The sign located at the northeast entrance may need to be relocated to maintain safe vehicular sight distance.
3. Trash storage should be located away from residential properties.
4. Some type of wall climbing plat material for the west wall of the convenience store.
5. The gas pump islands create a difficult on-site circulation pattern which crosses exit/enter traffic lanes. The pumps should be turned 90° to facilitate safer on-site circulation.
6. The southwest curb cut should be revised to meet City standards. (Relocate to the east).
7. The plan calls for intensifying screening along the north property line, overall site cleanup, and other general maintenance items. These (including off-site landscape maintenance) should be set in a Business Owner's Association or deed covenants.

It is assumed that these seven (7) conditions were adequately addressed with the Final Plat of the commercial PUD or satisfied through the building permit process.

Permitted Uses

Ordinance No. 3974 did not explicitly define the permitted uses of the First National Bank Commercial PUD, nor did the rezoning staff report at the time. A memo, dated September 6, 1983, to the City Manager's Office from Larry Hulse, Chief Planner, outlines the permitted and prohibited uses and other limitation of the PUD, as outlined in the original PUD application documents and interpreted by City Administration at that time (*see attached*).

The memo states that uses allowed in the PUD include the uses listed in the C-2, Neighborhood Shopping District, permitted uses and conditional uses, except for:

- Air conditioning
- Heating and plumbing
- Automobile service station and tire, battery, and automobile accessory stores
- Bus terminals
- Hotels and motels
- Restaurant, drive-up window type
- Telephone exchange and telephone transmission equipment structures.

There is also a restriction that no single use can occupy more than 4,000 square feet of floor area and at least 50% of the second floor would have to be used for business and professional offices.

PROPOSED AMENDMENT

The proposed application consists of an amendment of Ordinance No. 3974.

PROPOSED USE AND BUILDING:

The proposed PUD amendment is to set out, by Ordinances, the permitted uses in the PUD on Lot 1 to include educational, cultural, and religious institutions and their associated activities; and, multiple family dwellings. The proposed amendment would also eliminate the restriction that no single use can occupy more than 4,000 square feet of floor area.

The basis for the proposed amendment is so that Kansas State University can use the second floor of the existing structure for meeting and classroom space associated with the University. Kansas State University has begun renovation of the second floor space to use it as an English Laboratory for student learning or improving their English and prepare them for their academic career at Kansas State University. Other uses associated with Kansas State University or entities associated with the University would be permitted with the proposed amendment.

The applicant would also like to have the availability to transform the existing commercial space to a multiple-family residential use if the market would dictate the change to the residential use. No current plans are proposed for such a change of use.

The existing building is two (2) full stories with a partial basement area on the east side of the structure. The footprint of the building is 14,327 square feet. The total floor area of the structure is 19,852 square feet between the three (3) floors. The current mix of uses is as followed:

Lower level – vacant commercial space

Main floor – retail space

- hair and beauty salon
- 2 restaurant businesses
- coffee shop
- Bank and financial institution with two (2) drive-thru lanes

Second Floor – Kansas State University meeting and class room space

- Business and professional office

No significant changes to the existing building footprint or exterior are proposed with the amendment request. An exterior stairwell is currently being constructed to access the lower level commercial space. The change to the structure was deemed not to be a substantial modification to the PUD, as set forth in Section 9-108(C). The building permit was issued on June 24, 2013.

PROPOSED SIGNS: The Final Development Plan shows wall signs in the form of cabinet type signs and two (2) types of ground signs. There are:

- Seventeen (17), 2 foot by 14 foot wall signs to identify tenant spaces, some of which may have multiple signs for multiple tenants,
- One (1), 5 foot by 5 foot wall, identification sign, and
- One (1), 5.5 foot by 15 foot wall identification sign.

The existing ground sign at the intersection of Claflin Road and Denison Avenue is a double-faced, twenty-three (23) feet tall and six (6) feet wide pole sign. The base of the pole is wrapped with a metal frame. The sign identifies the development as “Wildcat Landing” (32 square feet), a seven (7) square foot, changeable copy electronic sign that alternates the display of time and temperature and a nineteen (19) square foot tenant sign.

PROPOSED LIGHTING: Lighting consists of existing pole lights illuminating the parking lots and downcast lights on the exterior walls and underneath the buildings’ awning and fascia.

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 of the First National Bank Commercial PUD was to create a small neighborhood shopping center that was compatible with the surrounding neighborhood. The proposed amendment would expand the permitted uses of the commercial PUD to include educational, cultural, and religious institutions and their associated activities; and, multiple family dwellings. The proposed amendment is consistent with the intent and purpose of the approved PUD in that the added uses are similar to that of the surrounding neighborhoods. The proposed use of the second floor area appears to be compatible with the existing retail, restaurant and business and professional offices.

2. WHETHER THE PROPOSED AMENDMENT IS MADE NECESSARY BECAUSE OF CHANGED OR CHANGING CONDITIONS IN OR AROUND THE PUD, AND THE NATURE OF SUCH CONDITIONS: The proposed amendment is made necessary because of the applicant would like to add educational, cultural, and religious institutions and their associated activities; and, multiple family dwellings to the list of permitted uses so that Kansas State University can use the second floor area as meeting space for the English Laboratory for English as second language students at the University. In addition, the applicant would like to have the option to renovate the commercial area to a multiple-family use.

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 the use of vacant commercial space that will be compatible with the surrounding neighborhood and minimize off-street and on-street parking demands in the area. The amendment is necessary because of the proposed additions to the list of permitted uses 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: The landscaping is largely in place and consists of grass lawn areas along Denison Avenue and Claflin Road and foundation plantings around the existing building and within an existing courtyard in the center of the structure. The applicant has submitted a landscape plan that shows replacement or enhancement of these existing landscape areas. The enhancements include adding landscape bedding along the bank drive-thru area and along the foundation of the structure that consist of shrubs, ornamental grasses and perennials. A note on the landscape plans states that the proposed landscape will use underground, automatic irrigation systems. (*see the applicant landscape plan for additional details*)

2. SCREENING: The subject site is screened from the adjacent residential properties to the north and west by a six (6) to eight (8) foot tall, sight obscuring screening fences that is made of wood and plastic vinyl. The screening on the west property line includes a concrete retaining wall.

Trash dumpsters serving the subject site are located on the west property line and approximately 230 feet from the east property line on Denison Avenue. These dumpsters are not enclosed with sight obscuring screening. The Final Development Plan shows the location of the enclosure, but notes that such enclosure would eliminate two (2) existing off-street parking spaces. No details of the type of screening that could be installed are provided.

The dumpster is adequately screened from adjacent residential properties by the existing retaining wall and screening fence to the west and screening fence to the north. The dumpsters are not screened to the east. The area where the dumpsters are located is approximately six (6) feet above the sidewalk and roadway along Denison Avenue. These dumpsters are visible from Denison Avenue, but because of their distance from the sidewalk and roadway they do not have an adverse impact. The Final Development Plan shows that the immediate area around the dumpster is designated as employee parking,

which may reduce the adverse impact of the unscreened dumpster on the subject site. As stated in **4. CIRCULATION**, the subject site was originally designed to have limited off-street parking to encourage pedestrian use of the neighborhood commercial development. Comparing the impact of the unscreened dumpster to the impacts of eliminating two (2) off-street parking spaces; the reduction of off-street parking would impact the businesses on the subject site and surrounding neighborhood more adversely than the dumpsters not being screened.

3. DRAINAGE: The subject site is completely developed upon and no substantial modifications are proposed to the subject site. The development sheet flows over the existing off-street parking lot towards Claflin Road and Denison Avenue, where it is collected by the public stormwater sewer system. There are no known issues regarding the current drainage of the site or the adjacent stormwater sewer system.

4. CIRCULATION:

Access

The subject site accesses the public rights-of-way by existing curb cuts onto Denison Avenue and Claflin Road. A second access point is located off of Claflin Road leading to Dara's Fast Lane Convenience Store on Lot 2, First National Bank Center. The bank drive-thru flows from west to east using the internal driving aisle of the parking lot and a curb cut onto Denison Avenue.

There is free flow of vehicle access between both lots of the commercial development using the existing curb cuts and internal driving aisles of the off-street parking lot. It is unknown if a cross-access easement is on file for the subject site and adjacent lot.

Off-street Parking

Fifty-five (55) off-street parking spaces are located on the subject site. The spaces are located to the north and west of the existing structure. The Final Development Plans state that thirty-two (32) spaces are devoted to customers and twenty (20) are reserved for employees of the various businesses. The two (2) types of parking spaces will be designated with signage. Two (2) off-street parking spaces are located near the bank drive-thru, which is used by the pizza restaurant for their delivery vehicles.

The Final Development Plan provides a table listing the existing commercial uses in the structure and the minimum required off-street parking for the various uses based on the gross square footage of the area. The area being used by Kansas State University is being classified as Business and Professional Office use, which requires a minimum of 1 space per 300 square feet of floor area. The minimum required number of off-street parking spaces by the type of use and gross floor area is 123 spaces. Assuming that 10% of the gross floor area is space that does not count towards the parking requirements (i.e. storage, restrooms, etc.), 111 spaces are required.

Attachment No. 2

The PUD was approved with a total of 59 off-street parking spaces between the two (2) lots (7 spaces for the convenience store and 52 spaces for the structure on the subject site. A letter addressed to Larry Hulse, Chief Planner from James T. McCullough, dated August 20, 1985, outlines the reason for the minimum off-street parking spaces provided was to discourage large retail uses, which would change the character of the development from “. . . neighborhood service commercial uses to a retail center with a city wide customer base.” The letter continues stating “Service activities of all kinds providing convenience to the university and surrounding neighborhood are the targeted businesses for the center. (*see attached*).

As previously shown, the PUD purposefully used the minimum number of parking spaces to maintain a neighborhood commercial center that promoted pedestrian traffic and discouraged vehicular uses. The application documents presume that most uses of the PUD would generate pedestrian traffic from the university or surrounding residential neighborhood, rather traffic from vehicles. The proposed permitted uses related to the activities of Kansas State University should not adversely impact the vehicular access or require additional off-street parking. Most of the students that will use the English Laboratory will live in nearby university housing or will utilize parking on campus and walk to the subject site.

It is unknown what the mix of commercial and residential uses would be without floor plans for the residential uses. Depending on the number of units, and mix of bedroom counts, a multiple-family element may require more parking than commercial use, such as the Business and Professional Offices. The specific use’s parking requirement cannot be evaluated.

The Final Develop Plans show that if the trash dumpster is required to be installed, then two (2) existing spaces would need to be eliminated because the enclosure would severely limit access to the existing spaces. The parking for the commercial center was purposefully limited to encourage pedestrian uses for the neighborhood commercial center. Further limiting the parking may adversely impact to the commercial development and surrounding neighborhood.

Pedestrian Access

Internal sidewalks and walkways provide pedestrian access to the various businesses and uses in the existing structure. These internal pedestrian ways connect to the existing sidewalks along Claflin Road and Denison Avenue. A bike rack is present within the courtyard of the structure.

5. OPEN SPACE/LANDSCAPED AND COMMON AREA: No common area is proposed. An open courtyard with deciduous trees is located in the center of the existing structures. Landscaped space is approximately 11% of the site’s coverage.

6. CHARACTER OF THE NEIGHBORHOOD: The neighborhood is a mix of commercial uses, Kansas State University activities, including student dormitories, religious organizations and residential uses which include multiple-family dwellings, two-family dwellings and single-family dwellings, most of which are rental uses and fraternities and sororities.

MATTERS TO BE CONSIDERED WHEN REZONING

1. EXISTING USE: The existing building is two (2) full stories with a partial basement area on the east side of the structure. Fifty-five (55) off-street parking spaces are provided throughout the subject site for customer and employees of the commercial development. The footprint of the building is 14,327 square feet. The total floor area of the structure is 19,852 square feet between the three (3) floors. The current mix of uses is as followed:

Lower level – vacant commercial space

Main floor – retail space

- Hair and beauty salon
- 2 restaurant businesses
- Coffee shop
- Bank and financial institution

Second Floor – Kansas State University meeting and class room space

- Business and professional office

2. PHYSICAL AND ENVIRONMENTAL CHARACTERISTICS: Lot 1, First National Bank Center is a developed lot at the northwest corner of Claflin Road and Denison Avenue. The subject site is relatively flat, with a slight slope down toward in the Claflin Road and Denison Avenue intersection. The subject site is not shown to be in a mapped floodplain on the effective or preliminary Flood Insurance Rate Map panels # 0354.

3. SURROUNDING LAND USE AND ZONING:

- (a.) **NORTH:** Gamma Phi Beta Sorority, Phi Beta Phi Sorority, Todd Road right-of-way (ROW), Cats for Christ Religious Center and single-family and single-family attached residential uses. R-3/UO, Multiple-Family Residential District and University Overlay District, R-2, Two-Family Residential District, R-2/UO District, and R-1, Single-Family Residential District.

Attachment No. 2

- (b.) **SOUTH:** Claflin Road ROW and Kansas State University dormitories. R-3/VO, Multiple-Family Residential District and University Overlay District and U, University District.
- (c.) **EAST:** Denison Avenue ROW, Kansas State University. R-3 District and U District
- (d.) **WEST:** Dara's Fast Lane Convenience Store, Jesus Christ Church of Latter-Day Saints religious center and multiple-family residential uses. R-3/VO Districts.

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

5. SUITABILITY OF SITE FOR USES UNDER CURRENT ZONING: The subject site is suitable for the existing commercial development at the proposed amendment to the Preliminary Development Plan and Ordinance No. 3974. The subject site is completely built upon. No substantial changes are proposed to the exterior of the existing structure. The amendment to allow additional uses to the list of permitted uses is suitable for the current zoning, the proposed educational, cultural, and religious institutions and their associated activities are similar to the permitted business and professional offices permitted in the PUD. The multiple-family dwellings would be suitable under the current zoning, but more evaluation of the impact on off-street parking is required.

6. COMPATIBILITY OF PROPOSED DISTRICT WITH NEARBY PROPERTIES AND EXTENT TO WHICH IT MAY HAVE DETRIMENTAL AFFECTS: The proposed amendment is to add educational, cultural, and religious institutions and their associated activities and, multiple family dwellings is similar to the mix of uses found on nearby properties. Minimal impacts on adjacent residential or university uses are anticipated. Kansas State University has several office and education buildings in the immediate area. Students will be able to walk from campus or the adjacent University housing for meetings, training and classes. The added light, noise and traffic for the proposed educational use should not substantially impact the adjacent neighborhood, especially when compared to the existing commercial uses in the PUD.

Likewise, the multiple-family residential use is similar to the residential uses in the immediate area. The University dormitories are located to the south of the subject site; Greek housing is located to the north and multiple-family developments are located to the west. The amount of light and noise from the residential use should not impact the neighborhood. The impacts from traffic cannot be determined. No adequate floor plan and information about the number of units and mix of bedrooms has been provided. The concern is that there may be an inadequate amount of off-street parking for the mix of commercial and residential uses. This inadequacy may force business customers,

employees or future residents to use on-street parking in the neighborhood. On-street parking is severely congested because of the mix of residential uses in the neighborhood and because of its proximity to campus. Because of this, City Administration is recommending that a future amendment to the PUD, as a Final Development Plan, be submitted prior to renovating the structure to accommodate residential uses. The Final Development Plan will evaluate whether the proposed residents and commercial uses will be adequately served by off-street parking.

7. CONFORMANCE WITH COMPREHENSIVE PLAN: The Future Land Use Map for the Downtown Core Neighborhoods of the Manhattan Urban Area Comprehensive Plan designates the site as Neighborhood Commercial Center (NCC). The existing PUD conforms to the current Comprehensive Plan. The proposed PUD amendment also conforms to the Manhattan Urban Area Comprehensive Plan in that the educational, cultural, and religious institutions and their associated activities are similar to that of the Business and Professional Office uses permitted in the PUD. Providing the multiple-family residence to the commercial use would create mixed-use development. The mixed-used development would meet the policies of the NCC designation.

The Neighborhood Commercial Center (NCC) are:

NCC 1: Characteristics

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

NCC 2: Location

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

NCC 3: Size

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

NCC 4: Architectural Character

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

NCC 5: Circulation and Access

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

NCC 6: Parking Location and Design

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

NCC 7: Transitions between Uses

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

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

July 20, 1982:	Ordinance No. 3974 establishes First National Bank Planned Unit Development.
January 19, 2006	Manhattan Urban Area Planning Board recommends approval of the proposed PUD amendment of signage for Dara's Fast Lane.
February 7, 2006	City Commission approves first reading of the proposed PUD amendment of signage for Dara's Fast Lane.

February 21, 2006 City Commission approves Ordinance No. 6525 amending the signage for Dara's Fast Lane.

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, except for the proposed residential use, is consistent with Ordinance No. 3947, and the approved PUD, the Manhattan Zoning Regulations, and PUD requirements of the Manhattan Zoning Regulations.

10. RELATIVE GAIN TO THE PUBLIC HEALTH, SAFETY AND WELFARE THAT DENIAL OF THE REQUEST WOULD ACCOMPLISH, COMPARED WITH THE HARDSHIP IMPOSED UPON THE APPLICANT: There appears to be no gain to the public that denial would accomplish. The proposed amendment to provide educational, cultural, and religious institutions and their associated activities will allow the owner to take advantage of its location to Kansas State University to provide space for University offices and student space. These uses will allow the commercial development to be used to its full potential. Denial of the PUD amendment may be a hardship to the owner in that it would limit the use of an existing commercial development.

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

12. OTHER APPLICABLE FACTORS: None

13. STAFF COMMENTS:

City Administration recommends approval of the amendment of Ordinance No. 3947 and the Final Development Plan of Lot 1, First National Bank Addition, Commercial Planned Unit Development to add educational, cultural, and religious institutions and their associated activities to the list of permitted uses, with the following conditions:

Attachment No. 2

1. Permitted uses on Lot 1 shall include educational, religious and cultural institutions and their associated activities, and all the permitted and conditional uses of the C-2, Neighborhood Shopping District, except that the following uses shall be prohibited: Air conditioning, heating and plumbing sales; Automobile service stations; Tire, battery, and Automobile accessory stores; Bus terminals; Car washes; Drive-in establishments not associated with a bank or financial institution; Hotels and motels; Kennels, Package liquor stores; Public Utilities such as electrical or telephone substations that are not owned or operated by a municipality, where employees are generally not present, and that are in or near the area they are designed to serve.
2. Any future residential uses shall require a PUD amendment application to address layout and parking issues.
3. The following restriction listed in the original PUD application approved by Ordinance No. 3974 on July 20, 1982, shall be revoked: No single use can occupy more than 4,000 square feet of floor area and at least 50% of the second floor would have to be used for business and professional offices.
4. 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.
5. All landscaping and irrigation shall be maintained in good condition.
6. Signs shall be provided as proposed in the application documents, and Exempt signs to allow to those types of signs described in Article VI, Section 6-104 (A)(1),(2),(4),(5), and (7); and, Section 6-104 (B)(2) and B(5).

ALTERNATIVES:

1. Recommend approval of the proposed amendment of Ordinance No. 3947 and the Final Development Plan of Lot 1, First National Bank Addition, Commercial Planned Unit Development, stating the basis for such recommendation, with the 6 conditions listed in the staff report.
2. Recommend denial of the proposed amendment of Ordinance No. 3947 and the Final Development Plan of Lot 1, First National Bank Addition, Commercial Planned Unit Development, stating the specific reasons for denial.
3. Table the proposed Amendment to a specific date, for specifically stated reasons.

Attachment No. 2

POSSIBLE MOTION:

The Manhattan Urban Area Planning Board recommends approval of the proposed amendment of Ordinance No. 3947 and the Final Development Plan for Lot 1, First National Bank Addition, Commercial Planned Unit Development, based on the findings in the Staff Report, subject to the six (6) conditions of approval recommended by City Administration.

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

DATE: August 27, 2013.