



***MINUTES***  
***CITY COMMISSION MEETING***  
***TUESDAY, SEPTEMBER 6, 2016***  
***7:00 P.M.***

The Regular Meeting of the City Commission was held at 7:00 p.m. in the City Commission Room. Mayor Usha Reddi and Commissioners Linda Morse, Michael L. Dodson, Wynn Butler, and Karen McCulloh were present. Also present were the City Manager Ron R. Fehr, Deputy City Manager Jason Hilgers, Assistant City Manager Kiel Mangus, City Attorney Katharine Jackson, City Clerk Gary S. Fees, 12 staff, and approximately 60 interested citizens.

**PLEDGE OF ALLEGIANCE**

Mayor Reddi led the Commission in the Pledge of Allegiance.

**PROCLAMATIONS**

Mayor Reddi proclaimed September 17 - 23, 2016, ***Constitution Week***. Nancy Williams, Susan Bass, Sue Carpenter, and Ila Morrill, representing the National Society Daughters of the American Revolution, were present to receive the proclamation.

Mayor Reddi proclaimed September 2016, ***Recovery Month***. Robbin Cole, Executive Director, Pawnee Mental Health Services, was present to receive the proclamation.

**PUBLIC COMMENTS**

Mayor Reddi opened the public comments.

Brandon Irwin, Assistant Professor of Kinesiology, Kansas State University, provided the Commission with background information on the issues with affordable housing in the community and provided an update on the tiny house that he is building. He stated that he and his colleagues have launched an affordable housing project to address this critical need in the community and asked about changing the current building and zoning codes to accommodate these tiny houses. He informed the Commission that stakeholders include

## PUBLIC COMMENTS (CONTINUED)

Habitat for Humanity, Manhattan Area Housing Partnership, and said that he has received support and donations from local businesses. He encouraged the community to learn more about the tiny house project and asked the Commission to help address the issue of sustainability in the community.

Mayor Reddi stated that she would be attending a roundtable discussion at the League of Kansas Municipalities Conference on this topic.

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

## COMMISSIONER COMMENTS

Commissioner McCulloh stated that her grandchildren were recently in town for the Speedy P.D. Race for Parkinson's Disease on Saturday, August 27, 2016, and appreciated City Park Pool being open through Labor Day.

Commissioner Morse informed the community that the North Central-Flint Hills Area Agency on Aging would be hosting the 2016 Sunflower Fair in Salina for senior citizens on September 20, 2016, and encouraged everyone interested to attend.

Mayor Reddi stated that the Manhattan/Riley County League of Women Voters were hosting a Community Conversation on Saturday, September 10, 2016, starting at 9:30 a.m., at the College Avenue Methodist Church, with members of the City Commission attending. She encouraged those interested to attend and stated there would also be a presentation from Rob Ott, Director of Public Works, regarding the sales tax initiative for street maintenance. She congratulated Anne Smith, Director of the Flint Hills ATA, for being recognized for her outstanding dedication and work to improve public transportation.

## CONSENT AGENDA

(\* denotes those items discussed)

### MINUTES

The Commission approved the minutes of the Regular City Commission Meeting held Tuesday, August 16, 2016.

## CONSENT AGENDA (CONTINUED)

### **CLAIMS REGISTER NO. 2829**

The Commission approved Claims Register No. 2829 authorizing and approving the payment of claims from August 10, 2016, to August 30, 2016, in the amount of \$3,754,072.62.

### **ORDINANCE NO. 7240 - FRANCHISE AGREEMENT - WAMEGO TELECOM**

The Commission approved Ordinance No. 7240 amending Article XI of Chapter 15 of the Code of Ordinances, authorizing a competitive infrastructure provider franchise with Wamego Telecom.

\* **ORDINANCE NO. 7241 - ADOPT - 2017 BUDGET**

Commissioner Butler requested that the 2017 Budget item be moved to the end of the General Agenda.

\* **RESOLUTION NO. 090616-A - APPROVE - 2017-2022 CAPITAL IMPROVEMENT PROGRAM**

Commissioner Butler requested that the 2017 Budget item be moved to the end of the General Agenda.

\* **ORDINANCE NO. 7242 - AMEND - EMPLOYEE BENEFIT FUND**

Commissioner Butler requested that the 2017 Budget item be moved to the end of the General Agenda.

\* **FIRST READING - AMEND - STORMWATER RATES**

Commissioner Butler requested that the 2017 Budget item be moved to the end of the General Agenda.

\* **FIRST READING - 2017 SALARY ORDINANCE**

Commissioner Butler requested that the 2017 Budget item be moved to the end of the General Agenda.

\* **RESOLUTION NO. 090616-B - AMEND - PARKS AND RECREATION PROGRAM FEES**

Commissioner Butler requested that the 2017 Budget item be moved to the end of the General Agenda.

## CONSENT AGENDA (CONTINUED)

### FIRST READING - AMEND - GREENBRIAR RESIDENTIAL PUD

The Commission approved first reading of an ordinance amending Ordinance Nos. 4581 and 7203 and the Final Development Plan of the Greenbriar Residential Planned Unit Development, generally located at 2420 Greenbriar Drive, as proposed, based on the findings in the Staff Report (*See Attachment No. 1*), subject to the two (2) conditions of approval as recommended by the Planning Board.

### PUBLIC HEARING - ESTABLISH - BLUEVILLE NURSERY TRANSPORTATION DEVELOPMENT DISTRICT (TDD)

Mayor Reddi opened the public hearing.

Hearing no comments, Mayor Reddi closed the public hearing.

### FIRST READING - ESTABLISH - BLUEVILLE NURSERY TDD

The Commission approved first reading of an ordinance establishing the Blueville Nursery TDD.

### CHANGE ORDER NO. 2 - WELL REHABILITATION PROJECT (WA1606)

The Commission approved and authorized the Mayor to execute Change Order No. 2 for the 2016 Well Rehabilitation Project (WA1606), resulting in a net increase in the amount of \$61,326.00 (+353%) to the contract with Alliance Pump & Mechanical Service, Inc., of Independence, Missouri, for additional treatments and repairs required to return City of Manhattan Public Water Supply Well 17 to service.

### REQUEST FOR PROPOSALS - AIRPORT - FOOD AND BEVERAGE CONCESSIONS

The Commission authorized City Administration to issue a Request for Proposals for a Food and Beverage Concessions Agreement at the Manhattan Regional Airport.

### AGREEMENT - PROFESSIONAL SERVICES - WATER AND WASTEWATER FACILITIES PLAN UPDATE (SP1603, CIP #WW143P)

The Commission authorized City Administration to finalize and the Mayor and City Clerk to execute an agreement for professional services in an amount not to exceed \$399,993.32, with Alfred Benesch & Company, of Manhattan, Kansas, for the Water and Wastewater Facilities Plan Update (SP1603, CIP #WW143P) project.

## CONSENT AGENDA (CONTINUED)

### AWARD CONTRACT - EUREKA VALLEY TRANSMISSION WATER MAIN, PHASE II (WA1406, CIP #WA125P)

The Commission accepted the Engineer's Opinion of Probable Cost in the amount of \$3,677,710.00; awarded a construction contract to the lowest bidder, Bayer Construction Company, Inc. of Manhattan, Kansas; and authorized the Mayor and City Clerk to execute the construction contract in the amount of \$2,714,606.05 for the Eureka Valley Transmission Water Main, Phase II, project (WA1406, CIP #WA125P).

### RESOLUTION NO. 090616-C - ISSUE - GENERAL OBLIGATION BONDS - EUREKA VALLEY TRANSMISSION WATER MAIN, PHASE II (WA1406, CIP #WA125P)

The Commission approved Resolution No. 090616-C, authorizing the issuance of General Obligation Bonds for the Eureka Valley Transmission Water Main, Phase II, project (WA1406, CIP #WA125P).

### CONTRACT - REPAIR AND RECONDITION WATERSLIDES

The Commission authorized the Mayor and City Clerk to execute a contract in the amount of \$29,815.00 with SlideCare, LLC, of Avon Lake, Ohio, for the repair and reconditioning of eight waterslides.

### AGREEMENT - FAA - FEATHER FIELD LAND ACQUISITION

The Commission accepted and authorized the Mayor and City Clerk to execute Federal Aviation Administration (FAA) Grant Offer No. 3-20-0052-047-2016 in the amount of \$1,236,278.00 for reimbursement of Feather Field land acquired for installation of a wildlife fence around the Manhattan Regional Airport.

### OUTSIDE CITY WATER AGREEMENT - ZACHARAY J. BURTON

The Commission authorized the Mayor and City Clerk to execute an agreement with Zachary J. Burton, Burton Land Company, LLC, for an outside city limits water service connection for the property located on the South Half of Section 33, Township 9 South, Range 7 East, Less The Hartford Addition to the City of Manhattan, Riley County, Kansas.

### AGREEMENTS - CDBG 2016 PROGRAM YEAR

The Commission authorized the Mayor and City Clerk to execute the Community Development Block Grant (CDBG) 2016 Program Year Grant Agreement and the Public Services Sub-Recipient Agreements with Housing and Credit Counseling, Inc.; Manhattan Emergency Shelter Inc.; Kansas Legal Services, Inc.; Pawnee Mental Health, Inc.; and Sunflower CASA Project Inc. - Stepping Stones Child Advocacy Center.

## CONSENT AGENDA (CONTINUED)

### **PURCHASE - STORM WARNING SIREN (CIP #FR037P)**

The Commission authorized a sole source purchase of Federal Signal Corporation warning siren equipment, installation, and training (CIP #FR037P) from Blue Valley Public Safety, of Grain Valley, Missouri, in the amount of \$24,983.59, to be paid from the General Fund.

### **BOARD APPOINTMENT - SOCIAL SERVICES ADVISORY BOARD**

The Commission approved the re-appointment of John Pecoraro, 404 Bluemont Avenue, to a three-year term. Mr. Pecoraro's term begins immediately, and will expire June 30, 2019.

After discussion, Commissioner McCulloh moved to approve the consent agenda with the exception of Item D – ORDINANCE NO. 7241 – ADOPT – 2017 BUDGET; RESOLUTION NO. 090616-A – APPROVE – 2017-2022 CAPITAL IMPROVEMENT PROGRAM; ORDINANCE NO. 7242 – AMEND – EMPLOYEE BENEFIT FUND; FIRST READING – AMEND – STORMWATER RATES; FIRST READING – 2017 SALARY ORDINANCE; and RESOLUTION NO. 090616-B – AMEND – PARKS AND RECREATION PROGRAM FEES, which was moved to the end of the General Agenda at the request of Commissioner Butler. Commissioner Butler seconded the motion. On a roll call vote, motion carried 5-0.

## GENERAL AGENDA

### **PRESENTATION - 2015 CITY AUDIT**

Hillary Badger, Assistant Finance Director, introduced the item. She thanked Rina Neal, City Controller, for her great work on putting together the budget information.

Dr. Eric Higgins, Chair, Municipal Audit Committee, presented additional information on the 2015 City Audit and process. He thanked the finance staff for implementing recommendations that were made earlier and discussed the Kansas Public Employees Retirement System (KPERs) liability that needs to be shown.

Michelle Crow, CPA, Varney & Associates, informed the Commission that they did not have any findings this year for the 2015 City Budget and are pleased with the progress that has been made. She highlighted the audit process and informed the Commission that Varney & Associates also met with the Municipal Audit Committee and appreciated the assistance provided by Rina Neal and the finance staff during the audit.

Mayor Reddi opened the public comments.

## GENERAL AGENDA (CONTINUED)

### PRESENTATION - 2015 CITY AUDIT (CONTINUED)

Hearing no comments, Mayor Reddi closed the public comments.

After comments from the Commission, Commissioner McCulloh moved to receive and accept the Auditor's reports for the 2015 City Audit. Commissioner Morse seconded the motion. On a roll call vote, motion carried 5-0.

### FIRST READING - AMEND - LOT 4, MCCALL LANDING COMMERCIAL PLANNED UNIT DEVELOPMENT

Eric Cattell, Assistant Director for Planning, presented an overview of the item. He highlighted the site plan, floor plan, drainage information, and access to the subject site.

Rob Ott, Director of Public Works, responded to questions from the Commission regarding traffic flow for the development and clarified travel easement responsibilities.

Mayor Reddi opened the public comments.

Hearing no comments, Mayor Reddi closed the public comments.

After discussion, Commissioner Morse moved to approve first reading of an ordinance amending Ordinance No. 6745 and the Preliminary Development Plan of Lot 4, McCall Landing Commercial Planned Unit Development, generally located northeast of the intersection of McCall Road and Landing Place, to be known as the Final Development Plan of Lot 4, McCall Landing Commercial Planned Unit Development, based on the findings in the Staff Report (*See Attachment No. 2*), with the one condition of approval recommended by the Manhattan Urban Area Planning Board. Commissioner Dodson seconded the motion. On a roll call vote, motion carried 5-0.

### FIRST READING - ANNEX AND REZONE - CITY-OWNED LAND - WASTEWATER TREATMENT PLANT, MANHATTAN LEVEE SYSTEM AND THE RAW WATER WELLS

Eric Cattell, Assistant Director for Planning, presented an overview of the item. He then responded to questions from the Commission regarding annexation of Highway 24 and highlighted the proposed area to be annexed and rezoned.

Ron Fehr, City Manager, provided additional information on the item.

Eric Cattell, Assistant Director for Planning, responded to additional questions from the Commission regarding the potential for future annexations.

Mayor Reddi opened the public comments.

## GENERAL AGENDA (CONTINUED)

### FIRST READING - ANNEX AND REZONE - CITY-OWNED LAND - WASTEWATER TREATMENT PLANT, MANHATTAN LEVEE SYSTEM AND THE RAW WATER WELLS (CONTINUED)

Hearing no comments, Mayor Reddi closed the public comments.

After discussion, Commissioner Dodson moved to approve first reading of an ordinance annexing 188.24 acres of City-owned land associated with the Wastewater Treatment Plant, the Manhattan Levee System and the raw water wells, generally located along the Blue and Kansas Rivers, U.S. Highway 24, and the Linear Trail, based on conformance with the Manhattan Urban Area Comprehensive Plan, The Growth Vision, and the Capital Improvements Program; and approve first reading of an ordinance rezoning City-owned land associated with the Wastewater Treatment Plant, the Manhattan Levee System and the raw water wells, from Riley County AG, Agriculture District, and Pottawatomie County A1, Agriculture District, to I-3, Light Industrial District, based on the findings in the Staff Report (*See Attachment No. 3*) and the recommendation of the Planning Board. Commissioner McCulloh seconded the motion. On a roll call vote, motion carried 5-0.

### RESOLUTION NO. 090616-D - RILEY COUNTY TAX SALE - AUTHORIZATION TO BID - FOUR WINDS VILLAGE, BLOCK TWO, AND TWO LOTS ON VILLAGE DRIVE

Jason Hilgers, Deputy City Manager, presented an overview of the item. He highlighted a map showing the parcels that are to be bid at the Riley County Tax Sale on September 28, 2016, including properties in Four Winds Village and two properties in the floodplain on Village Drive; tax sale information and zoning restrictions; unpaid taxes and outstanding specials on 47 lots at Four Winds Village; options and considerations for the City to bid or not to bid on these properties; and potential scenarios and considerations if the City wins the bid on these lots. He then responded to questions from the Commission and stated that he and Bill Frost, Legal Counsel for the City of Manhattan, plan to attend and participate at the auction if the Commission wishes to proceed forward.

Bill Frost, Legal Counsel, and Jason Hilgers, Deputy City Manager, responded to questions from the Commission. They provided additional information on the clustering of lots; evaluation of property and a future report to be received from Fletcher Simmons; potential zoning considerations; and options for consideration if the City is the successful bidder and as a developer/seller to recoup investment in the property.

After additional questions from the Commission, Jason Hilgers, Deputy City Manager, and Bill Frost, Legal Counsel, responded to questions regarding common area owned by the homeowners association, delinquent taxes and specials, and expectations by participating at the Riley County tax sale.

Mayor Reddi opened the public comments.

## GENERAL AGENDA (CONTINUED)

### RESOLUTION NO. 090616-D - RILEY COUNTY TAX SALE - AUTHORIZATION TO BID - FOUR WINDS VILLAGE, BLOCK TWO, AND TWO LOTS ON VILLAGE DRIVE (CONTINUED)

Loren Pepperd, 1404 Oaktree Place, informed the Commission that there are homeowners association fees and future property taxes that also need to be considered. He said that there may be an opportunity to combine lots and build larger duplexes. He stated that there have been problems with this development from the beginning and that it may be difficult to find a developer willing to develop the entire project.

Roger Seymour, 1181 Rock Springs Lane, stated that Riley County has pulled properties off the tax sale and encouraged the City to delay taking any further action. He stated that there is a decrease in property values worldwide and Manhattan is not immune. He asked that the City find out what Pottawatomie County has done in the past when a developer fails to pay and if a third party has been involved to pay specials in the event of default.

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

Bill Frost, Legal Counsel, responded to questions and provided clarification regarding sheriff's deeds and insurance coverage.

After additional discussion and comments from the Commission, Commissioner Morse moved to approve Resolution No. 090616-D, authorizing the City Manager, or his designee, to bid on and potentially acquire property within Four Winds Village, Block Two, and two lots on Village Drive (921 and 939 Village Drive) at the Riley County tax sale on September 28, 2016. Commissioner Dodson seconded the motion. On a roll call vote, motion carried 5-0.

At 8:42 p.m., the Commission took a brief recess.

### DISCUSSION - RENTAL LICENSING PROGRAM DRAFT ORDINANCE AND NONCONFORMING USE

Kiel Mangus, Assistant City Manager, presented an overview of the item. He highlighted rental information in Manhattan; a draft rental ordinance including a proposed timeframe, licensing process, inspection program and inspections to be conducted; an example of items in the exterior inspection checklist; a proposed fee structure and what the fees cover; staffing considerations for property maintenance and rental licensing program; and the benefits to proposed program.

Katie Jackson, City Attorney, responded to questions from the Commission and provided clarification on an owner who may appoint an agent who agrees to be "jointly and severally liable."

## GENERAL AGENDA (CONTINUED)

### DISCUSSION - RENTAL LICENSING PROGRAM DRAFT ORDINANCE AND NONCONFORMING USE (CONTINUED)

Mayor Reddi opened public comments.

Loren Pepperd, 1404 Oaktree Place, informed the Commission that there are federal, state and local laws that address landlord and tenant issues. He stated that rental inspections have been a point of discussion for 25 years between the City Commission and the landlords. He stated that many laws are written for special interest groups and each new ordinance adds to City employment, which takes more money out of the local economy. He presented property information available from the County that is updated annually and can be coordinated with the City of Manhattan. He then responded to questions from the Commission.

Richard Hill, 2008 Danbury Court, provided clarification that Mr. Pepperd is trying to point out that the County already provides the information the City is wanting. He asked the Commission to issue nonconforming certificates.

Mike Hill, 625 Pebblebrook Circle, former Manhattan Urban Area Planning Board member, informed the Commission that trust is being lost in government at all levels and stated that he did not trust what the rental program is trying to accomplish. He voiced concerns in how the proposed ordinance was written and how it would be interpreted in the future, the inconsistency of federal and local information requirements, the proposed registration fees, and the proposed exemptions for Kansas State University and government housing.

Katie Jackson, City Attorney, and Kiel Mangus, Assistant City Manager, responded to questions regarding the term "jointly and severally liable" and the draft ordinance.

Chuck Hennesy, 2608 Rogers Boulevard, Hennesy, Inc., Adjusting Services, insurance adjustor for Nationwide, informed the Commission that compared to other counties in Kansas and other Big 8 cities, Manhattan is doing well and is not in need of a rental program. He voiced concern with "jointly and severally liable" and stated that citizens can call the Code Services Office now for any concerns or problems. He said that he feels betrayed and described the rental licensing program as duplication of services, a waste of time and money.

Richard Hill, 2008 Danbury Court, provided different rating survey information in the United States for off-campus housing and stated that Manhattan comes out very high in the ratings. He voiced concerns with regulating a rental inspection program and highlighted the rights and protections for property owners. He stated that only hiring a

## GENERAL AGENDA (*CONTINUED*)

### DISCUSSION - RENTAL LICENSING PROGRAM DRAFT ORDINANCE AND NONCONFORMING USE (*CONTINUED*)

part-time person for the program is totally understated and will require more people. He asked the Commission to not treat landlords like third-class citizens and to focus on education and realize that there are codes in place now to accomplish everything that is wanted. He then responded to questions from the Commission and provided additional information on the item.

Austin Pfannenstiel, 3809 Buckeye Circle, owner of rental property, asked the Commission what the problem is that the Commission is trying to solve. He said the proposed fee is a regressive tax that will be passed on to the tenant dollar for dollar. He stated that if this ordinance takes place, it could lead to units being taken off the market. He encouraged the Commission to let the free market dictate and to look at the basic economics of creating jobs in Manhattan and to better determine what the City is trying to do.

Rob Stitt, 1120 Morgan Lane, voiced concern with the use of "jointly and severally liable" and the risks associated with the property manager. He agreed with the comments made earlier by Mike Hill and stated that there are already laws to address tenant and landlord rights. He asked the Commission to let the law of supply and demand work, to deal with the bad landlords, and to fix the potholes in the streets.

Kent Stewart, 2062 College Heights Road, informed the Commission that this whole issue started 40 to 50 years ago with substandard housing and initiatives of prior elected officials. He encouraged the Commission to ask the City Manager and the President of the Property Owners Association to form a joint committee to review the current codes and procedures already in place and, to work out the differences and then come back to the Commission with a resolution of those issues and recommendations what should occur next for an inspection program. He asked that the different parties work together on this item so that it not be an adversarial relationship.

Chuck Hennesy, 2608 Rogers Boulevard, Hennesy, Inc., Adjusting Services, insurance adjustor for Nationwide, informed the Commission that his advice was to talk with Pat Bosco at Kansas State University and to provide education materials to the students. He stated that Manhattan has an overly above average intelligent community and did not want to see a program like the one proposed to mess up Manhattan. He then responded to questions from the Commission.

## GENERAL AGENDA (CONTINUED)

### DISCUSSION - RENTAL LICENSING PROGRAM DRAFT ORDINANCE AND NONCONFORMING USE (CONTINUED)

Sara Fisher, 811 Osage Street, provided her perspective on the item and informed the Commission that this is a community and quality of life issue. She stated the exterior program is a start to address overcrowding, the number of cars blocking driveways, and other issues. She offered her support and appreciation for the efforts in taking a step in the right direction.

Dave Darling, 808 Haid Court, owner of a property management company, stated that he supported "jointly and severally liable" and asked that property management companies get involved as a third party. He stated that he was against the program as proposed and wanted to see a program focused on safety.

Richard Hill, 2008 Danbury Court, stated that an education program would solve the problems cited earlier by a property owner with the overcrowding situation and the laws requiring parking. He said there are already laws on the books and need to better educate on how to go about using the laws.

Mel Borst, 1918 Humboldt Street, expressed his appreciation to the Commission on their efforts to create a rental licensing program.

Sue Schnack, 17218 Washington Street, Omaha, Nebraska, owner of 1715 Laramie Street, informed the Commission that landlords and tenants can call the Code Services Office. She said the reality is that there are both good and bad rentals and owner-occupied homes and stated that she was not certain a new law would fix that. She voiced support to let the market take care of it and ultimately, the houses in poor condition do not get rented.

Roger Seymour, 1181 Rock Springs Lane, stated that the Code Division added two new zoning inspectors and now have four property maintenance inspectors. He asked the Commission what their motive is to register owners of property, when that information can already be obtained by Riley County records. He said this proposal is a regressive tax and the costs will be passed on to the tenants if the City decides to charge for a program. He requested that the program be delayed to educate and if a registration program is decided, then all properties, regardless of use or ownership, be registered. He stated the agent should only be a conduit and should not be held "jointly and severally." He asked the Commission to be fair and upfront why you want more government.

Brice Ebert, 2006 Southwind Road, informed the Commission that he has had communications with Kiel Mangus, Assistant City Manager, and Richard Hill, and was on a previous rental inspection committee that the City established. He voiced concern with a designated agent being held "jointly and severally" responsible and asked the Commission

## GENERAL AGENDA (CONTINUED)

### DISCUSSION - RENTAL LICENSING PROGRAM DRAFT ORDINANCE AND NONCONFORMING USE (CONTINUED)

if they would take on the responsibility. He then responded to questions from the Commission, discussed the importance of rental property to Manhattan's tax basis, and talked about forming a committee to address the item, concerns, and bring the item back to the Commissions for solutions in the future.

Kiel Mangus, Assistant City Manager, responded to questions and provided additional information on the inspection process.

Chuck Hennesy, 2608 Rogers Boulevard, Hennesy, Inc., Adjusting Services, insurance adjustor for Nationwide, informed the Commission that farmers also have rental properties in Manhattan. He stated that if it ain't broke, don't fix it.

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

Commissioner Dodson highlighted the original intent for safety and health for the program. He stated that we are not in an adversarial relationship and are listening to everyone and want to hear your ideas to sort this out. He asked that the landlords give the City some ideas on how to satisfy the basic elements of health, safety and accountability. He said the real issue is with less than ten percent of the landlords and many are the same owners that also owe taxes. He voiced support to get a group together to address what the core issues are and to get help from the landlord association on how we do that, even if that means starting with a blank sheet of paper. He reiterated the need for an educational component and for landlords to provide ideas on how to address health, safety, and accountability.

Commissioner McCulloh provided additional information on the item and voiced her desire to move forward. She asked how long we are going to argue and put this item off. She stated the City has bent over backwards to try and make an ordinance that works for everyone. She said the primary reason for the rental program is to provide health and safety for our citizens and to provide information on who to contact, who is responsible, and where people are located in rental units, including people in basements and attics.

Commissioner Morse stated that when she ran for the City Commission, she heard a lot about the desire for a rental program of some type at candidate forums and wants an ordinance that supports health and safety. She said that there has already been compromise and a lot of room between what was initially adopted and where we are today. She stated that she was not interested in protecting bad landlords from public scrutiny. She voiced support to use the County's database and update the database. She stated that she would support a property owner to designate an agent. She reiterated the desire for the community to be safe, healthy, and with rental properties that reflect a positive image of the community.

## GENERAL AGENDA (*CONTINUED*)

### DISCUSSION - RENTAL LICENSING PROGRAM DRAFT ORDINANCE AND NONCONFORMING USE (*CONTINUED*)

Commissioner Butler stated that he was probably elected for the first time due to an outcry of the rental inspection program. He said that he could not support the draft ordinance because it does not accomplish the mission to make things safer and better for students, soldiers, and everyone. He informed the public and fellow Commissioners that he could not support this in any way, shape or form. He suggested revisiting a rental assistance program that he talked about earlier. He stated that the County already has a database that the City can utilize. He stated that we need to be able to put people into a room and discuss what can work and what we are able to live with.

Commissioner McCulloh reiterated the importance for personal safety the need for the program. She stated that for the older neighborhoods, this program is terribly important.

Mayor Reddi thanked everyone that attended and said this is an important issue for all of us. She stated that there are some groups that have stronger advocates in Topeka to get the legislature to listen to them. However, she said there are a lot of others that do not have a way to do it, so they work through their local commission. She provided comments on the draft ordinance and voiced support in working with the County on the database, to work with Kansas State University and the Manhattan Area Chamber of Commerce to provide information on their websites, and wanted to continue the discussion for a rental licensing program.

Commissioner Morse voiced support to continue to work on the item. She acknowledged that there are issues in this community and have made compromises, but need to continue to ensure safer and healthier living conditions in the community.

After further comments and discussion of the Commission, Kiel Mangus, Assistant City Manager, responded to questions from the Commission and provided clarification on the components in the draft ordinance and the next steps in the process.

Ron Fehr, City Manager, recommended to the Commission that discussions regarding nonconforming properties be included in future discussions of a draft ordinance in a work session format. He also suggested that the City look into creating a focus group to include all parties in the discussion and to weigh issues.

Mayor Reddi thanked those in attendance and stated that she understands that an education component will need to play a big part in future discussions. Finally, she stated that this would be a continuing item and would also address nonconforming use.

At 12:10 a.m., the Commission took a brief recess.

ITEM REMOVED FROM CONSENT AGENDA

**ORDINANCE NO. 7241 – ADOPT – 2017 BUDGET; RESOLUTION NO. 090616-A – APPROVE – 2017-2022 CAPITAL IMPROVEMENT PROGRAM; ORDINANCE NO. 7242 – AMEND – EMPLOYEE BENEFIT FUND; FIRST READING – AMEND – STORMWATER RATES; FIRST READING – 2017 SALARY ORDINANCE; and RESOLUTION NO. 090616-B – AMEND – PARKS AND RECREATION PROGRAM FEES**

Ron Fehr, City Manager, provided a summary on the proposed 2017 City Budget, the 2017 - 2022 Capital Improvement Program, the 2017 salary ordinance, highlighted outside agency requests and identified funding sources, and the proposed three percent increase of the City's stormwater rates in 2017. He highlighted changes to the proposed 2017 City Budget and informed the Commission that the recommended mill levy increase at first reading has been reduced further from 1.0 mills to 0.969 mills. He also provided an overview of the proposed increases to Parks and Recreation program fees to help defray the costs. He then responded to questions from the Commission regarding the proposed budget recommendations and funding sources.

Eddie Eastes, Director of Parks and Recreation, provided additional information on the proposed programming fee increases and evaluation of programs. He then responded to questions from the Commission regarding the use of economic development funds and outside agency funding sources.

Mayor Reddi opened the public comments.

Lyle Butler, President, Manhattan Area Chamber of Commerce, discussed the importance to increase Manhattan's sales tax numbers and activities with the Convention and Visitors Bureau. He also discussed the opportunities and challenges in 2017 and beyond and the importance of economic development funds.

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

Commissioner Butler voiced concerns in raising the mill levy and also asking voters to support a sales tax initiative for maintenance of roads in November. He stated that he wanted to see the mill levy remain flat, that the budget focus on our priorities, and did not support using Capital Improvement Program funds to pay for improvements to the Peace Memorial Auditorium stage.

After discussion and comments from the Commission, Commissioner Dodson moved to approve Consent Item D [*approved Ordinance No. 7241 adopting the 2017 City Budget; approved Resolution No. 090616-A approving the 2017-2022 Capital Improvement Program; approved Ordinance No. 7242 amending the Employee Benefit Fund; approved first reading of a Charter Ordinance increasing stormwater rates 3%, effective January 1, 2017; approved first reading of the Salary Ordinance establishing a new range of salaries*

ITEM REMOVED FROM CONSENT AGENDA (CONTINUED)

**ORDINANCE NO. 7241 – ADOPT – 2017 BUDGET; RESOLUTION NO. 090616-A – APPROVE – 2017-2022 CAPITAL IMPROVEMENT PROGRAM; ORDINANCE NO. 7242 – AMEND – EMPLOYEE BENEFIT FUND; FIRST READING – AMEND – STORMWATER RATES; FIRST READING – 2017 SALARY ORDINANCE; and RESOLUTION NO. 090616-B – AMEND – PARKS AND RECREATION PROGRAM FEES (CONTINUED)**

*for 2017 for City employees; and approved Resolution No. 090616-B setting fees for Parks and Recreation programs].* Commissioner Morse seconded the motion. On a roll call vote, the motion carried 5-0, with the exception of Ordinance No. 7241 adopting the 2017 City Budget and Resolution No. 090616-A approving the 2017-2022 Capital Improvement Program, which carried 4-1, with Commissioner Butler voting against the items.

**ADJOURNMENT**

At 12:45 a.m., the Commission adjourned.



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Gary S. Fees, MMC, City Clerk

## **STAFF REPORT**

**AN AMENDMENT OF ORDINANCE NOS. 4581 AND 7203 OF THE GREENBRIAR RESIDENTIAL PLANNED UNIT DEVELOPMENT TO ALLOW FOR MORE DWELLING UNITS AND BEDROOMS THAN ORIGINALLY PERMITTED IN THE APPROVED AND RECENTLY AMENDED PUD. THE PUD AMENDMENT IS IN THE FORM OF A FINAL DEVELOPMENT PLAN.**

## **BACKGROUND**

**APPLICANT/OWNER:** Woodway Investors, LLC

**ADDRESS:** 2420 Greenbriar Drive

**LOCATION:** Generally located to the northwest of the intersection of Kimball Avenue and College Avenue.

**AREA:** 5.45 acres

**DATE OF NEIGHBORHOOD MEETING:** Tuesday, June 14, 2016

**DATE OF PUBLIC NOTICE PUBLICATION:** Monday, July 1, 2016

**DATE OF PUBLIC HEARING: PLANNING BOARD:** Monday, August 1, 2016  
**CITY COMMISSION:** Tuesday, September 9, 2016

## **EXISTING PUD**

### **Ordinance**

Ordinance No. 4581 was approved on June 20, 1989 to rezone the site from R to PUD to allow for a multi-family development, known as the Woodway Apartments.

### **Conditions of Approval**

1. Provisions shall be made for all necessary sanitary sewer improvements including the lift station and force main to the point of connection at Hobbs and College Avenue with costs to be born by the applicant or any subsequent owner and that the lift station shall be located adjacent to the east entry off of College Avenue.
2. The applicant or any subsequent owner shall participate in the benefit district to be established at some time in the future when a northern interceptor sewer line is constructed.

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3. Provision of a deceleration lane on the north side of Kimball Avenue for the south entrance shall be constructed according to the standards of the City Engineering Division with all costs born by the applicant or any subsequent owner.
4. The provision of a minimum 5 foot wide sidewalks along Kimball and College Avenues shall be provided by the applicant or any subsequent owner. The sidewalk along College Avenue shall be in a pedestrian easement or on the street right-of-way.
5. The building as shown on the site plan in the northwest corner of the site shall be removed and four additional dwelling units may be added to Building A in the eastern most part of the site for a total of 84 dwelling units and the maximum number of bedrooms shall be limited to 210.
6. The permitted use shall be limited to multi-family housing. The total occupancy shall be limited to 250 tenants for the PUD.
7. The total number of off-street parking places shall be no less than 300 as proposed to provide adequate tenant and guest parking.
8. The PUD owner and management shall utilize a parking sticker system whereby each licensed tenant having a vehicle on the site receives one (1) parking sticker to attach to their vehicle. To further help monitoring of unauthorized vehicles by the management, the stickers shall be numbered 1 through 250 and new stickers issued each semester.
9. An additional fire hydrant shall be provided at the east entry drive.
10. Security for the performance of the landscaping requirements, as described herein and as shown on the preliminary development plan shall be provided pursuant to an agreement between the developer and the City.
11. If the carports are not provided along the south row of parking, landscaped berms shall be utilized in addition to the trees shown on the plan.
12. All landscaping, signage and lighting shall be provided as proposed and maintained in good condition.
13. A grove of trees of any variety shall be planted in the area where the building was removed at the northwest corner to discourage that area being used as an open recreational area. Additional screening shall be provided along the north and west property lines by planting an additional row of 7 to 8 foot tall Scotch Pines with 8 feet between the two rows of pines and each tree planted approximately 10 to 12 feet apart within a row to give a staggered effect. In addition, Winter Honeysuckle shall be planted between the trees to provide immediate screening until the trees mature.
14. The general residential character of the buildings shall be maintained.

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15. The owners shall provide an on-site management team consisting of one (1) full time manager, an assistant manager and a maintenance person.

On April 5, 2016, the Greenbriar PUD was amended because it was discovered that additional bedrooms had been constructed by a previous and were currently being used, thus violating Conditions 5 and 6 of the original PUD ordinance. The purpose of the April, 2016 PUD Amendment was to bring the property into conformance so that the apartment complex could be sold with a clear title to the current owner.

The conditions of approval for Ordinance No. 7203, approved on April 5, 2016 are:

1. Modify Condition No. 5 to increase the number of bedrooms to 278, as requested by the applicant.
2. Modify Condition No. 6 to increase the total occupancy from 250 to 278 occupants.
3. Eliminate Condition No. 8, as the parking sticker system is unneeded.

### **PROPOSED AMENDMENT**

The Greenbriar Residential Planned Unit Development was approved with Condition No. 5, which stated:

5. The building as shown on the site plan in the northwest corner of the site shall be removed and four additional dwelling units may be added to Building A in the eastern most part of the site for a total of 84 dwelling units and the maximum number of bedrooms shall be limited to 210.

The PUD was subsequently amended in April, 2016 because it was discovered that additional rooms that were originally considered a “study” had been used as a bedroom consistently since the original development of the PUD. The proposed amendment was to bring the current use into conformance with the PUD so that the property could be sold with a clear title. Seventy-six (76) apartment units had the additional rooms. The approved amendment added 76 bedrooms to the PUD, creating the final number of bedrooms for the PUD at 286.

Under the new ownership of the apartment complex, it was discovered that additional dwelling units were constructed in Building C, located in the center of the development, directly north of the entrance to the apartment complex that is off of Kimball Avenue. A 2-bedroom “model apartment unit” had been historically rented for consistent occupancy.

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The model apartment unit was presented as a marketing tool for the development and was not approved for a dwelling. A “leasing and manager’s office” and “community room” as shown on the originally approved Final Development Plans was converted to apartment units. The “community space” is now a 2-bedroom unit and the “leasing and manager’s office” is now a 1-bedroom unit. In addition to these changes, the area originally shown to be “lawn, storage and maintenance/maintenance office” was converted to the primary management/leasing office for the development.

The applicant is requesting to Amend the PUD and the Final Development Plan to increase the total number of dwelling units to 87 apartments and to increase the total number of bedrooms to 291.

No changes to the buildings exteriors, landscaping or site plan is proposed.

**PROPOSED SIGN:**

The on-site signage will not change and is consistent with the Final Development Agreement. There is an internally illuminated monument sign measuring 6 feet by 6 feet located at the entrance on Kimball

**PROPOSED LIGHTING:** The lighting will not change with the proposed amendment.

**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 amendment is consistent with the intent and purpose of the original PUD to provide multi-family living. The proposed amendment preserves the multi-family character in a desirable residential area of Manhattan.

**2. WHETHER THE PROPOSED AMENDMENT IS MADE NECESSARY BECAUSE OF CHANGED OR CHANGING CONDITIONS IN OR AROUND THE PUD, AND THE NATURE OF SUCH CONDITIONS:** The amendment is necessary because Condition No. 5 of Ordinance No. 4581 and Conditions No. 1 and 2 of Ordinance No. 7203 were not adhered to. According to the application documents, “The spaces in question have been used as rental apartments and as the management/leasing office consistently since the original development of the PUD, notwithstanding their designation for other uses in the original Development Plan.”

**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 applicant states “The proposed amendment will benefit the general public in that it will make proper and authorized the historical actual total occupancy of the apartment complex located in the PUD. To deny the proposed amendment would render (3) apartment units containing a total of five (5) bedrooms technically impermissible, thereby reducing the available inventory of quality, affordable off-campus housing.”

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

**1. LANDSCAPING:** There will be no changes to the landscaping agreement. The site is already landscaped according to the original Final Development Plan. Landscaping on site currently includes trees along the periphery of the site, somewhat screening the apartments along Kimball Avenue and College Avenue. There is also sufficient green space and landscaping within the site.

**2. SCREENING:** No additional screening is required.

**3. DRAINAGE:** There will be no changes to the drainage requirements as there is not an increase in impermeable surface or a reduction in open space.

**4. CIRCULATION:** Access to the site’s off-street parking lot is off of both Kimball Avenue and College Avenue. Internal streets connect the apartment buildings

Pedestrian Access. There are sidewalks along the north side of Kimball and along the west side of College Avenue, which runs alongside the east side of the development. Both of these sidewalks provide access to the site.

Traffic. There is likely to be little to no traffic increase as a result of the proposed amendment. If the rooms have been consistently used as bedrooms, there are likely to be the same number of tenants and visitors as there has been in the past.

Off-Street Parking. The number of parking spaces is consistent with Condition No. 7 of Ordinance No. 4581, stating there should be no fewer than 300 off street parking spaces on the site. There are currently 92 carports, 8 handicapped spaces and 200 open spaces, a total of 300 spaces.

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From a series of memos prior to the approval of the ordinance and the Final Development Plan, and a memo dated May 23, 1989 from the City's Planning Department it can be concluded that as the development was primarily intended to serve students, providing additional guest parking would offset neighborhood impacts from the increase in density. The memo states that with a limited number of 250 tenants, 300 parking spaces would allow for a sufficient amount of guest parking.

With the increased number of bedrooms and in conformance with Article 7-103, Off-street Parking Requirements of the Zoning Regulations, the proposed amendment requires a total number of 311 parking spaces. Following today's off-street parking regulations, an additional 8 spaces would be required. However, since there have been no complaints regarding the parking on this site, or spill-over parking experienced as a result, the existing off-street parking is sufficient to address demand and requiring 8 stalls be added to the site at this point in time would not produce a significant benefit.

**5. OPEN SPACE/LANDSCAPED AND COMMON AREA:** There is landscaped space within the site and a pool located on the east side of the site.

**6. CHARACTER OF THE NEIGHBORHOOD:** The proposed PUD Amendment is consistent with the character of the neighborhood. Its proximity to the university and hospital make it a desirable area to live. This amendment maintains the multi-family nature of the property and brings the property into compliance.

**MATTERS TO BE CONSIDERED WHEN REZONING**

**1. EXISTING USE:** The site consists of 8 multi-family residential structures. The units vary from one to four bedrooms and were constructed in the early 1990s.

**2. PHYSICAL AND ENVIRONMENTAL CHARACTERISTICS:** The site is located at a busy intersection near the hospital, the campus and many residential properties. It is generally flat with existing multi-family residential structures and mature trees.

**3. SURROUNDING LAND USE AND ZONING:**

**(a.) NORTH:** The area to the north is primarily multi-family residential consisting of the University Crossing Apartments PUD. There is single family housing further to the north, zoned R-1, Single Family Residential.

**(b.) SOUTH:** Located on the south side of Kimball Avenue is the Manhattan Surgical hospital and the Via Christi Hospital, also zoned PUD.

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**(c.) EAST:** To the east of the site across College Avenue and Kimball Ave the area is zoned U, University, consisting of agriculture land at the northeast corner of the intersection and the K-State football stadium at the southeast corner of the intersection.

**(d.) WEST:** The area to the west is zoned R, Single Family Residential. The Peace Lutheran Church is located directly west to the subject site. Further west is College Hill School and single family neighborhoods.

**4. GENERAL NEIGHBORHOOD CHARACTER:** The surrounding neighborhood is a mix of residential, hospital/medical, religious and University uses. The residential units are both single-family and multi-family dwellings, varying from owner occupied to renter occupied. The neighborhood also has several commercial uses (hospital and surgical center), the football stadium, and a childcare center. The site's location serves as a higher density residential buffer between lower density residential uses and university related uses.

**5. SUITABILITY OF SITE FOR USES UNDER CURRENT ZONING:** The current zoning of the site as a PUD is suitable for this multiple-building apartment development. The area is primarily composed of either residential development or PUDs.

**6. COMPATIBILITY OF PROPOSED DISTRICT WITH NEARBY PROPERTIES AND EXTENT TO WHICH IT MAY HAVE DETRIMENTAL AFFECTS:** No detrimental effects are anticipated as a result of the proposed amendment, as the site is compatible with surrounding zoning and land uses. The site has also been in existence for over two decades without any negative effects.

**7. CONFORMANCE WITH COMPREHENSIVE PLAN: THE SITE IS SHOWN ON THE FUTURE LAND USE MAP IN THE NORTHWEST PLANNING AREA. THE AREA IS DESIGNATED AS RESIDENTIAL HIGH DENSITY IN THE COMPREHENSIVE PLAN AND THE PUD'S USE AND THE PROPOSED AMENDMENT CONFORMS TO THE PLAN.**

**8. ZONING HISTORY AND LENGTH OF TIME VACANT AS ZONED:** The area was zone R, Single-Family Residential prior to being zoned as a PUD with the passing of Ordinance No. 4581 on June 20, 1989

**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.

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The PUD Regulations are intended to provide a maximum choice of living environments by allowing a variety of housing and building types; a more efficient land use than is generally achieved through conventional development; a development pattern that is in harmony with land use density, transportation facilities and community facilities; and a development plan which addresses specific needs and unique conditions of the site which may require changes in bulk regulations or layout. The proposed PUD amendment is consistent with the intent and purposes of the Zoning Regulations, and the intent of the PUD Regulations, subject to the conditions of approval.

**10. RELATIVE GAIN TO THE PUBLIC HEALTH, SAFETY AND WELFARE THAT DENIAL OF THE REQUEST WOULD ACCOMPLISH, COMPARED WITH THE HARDSHIP IMPOSED UPON THE APPLICANT:** There appears to be no gain to the public that denial would accomplish. Denial would prohibit the use of the 3 dwelling units that have apparently been in use in this since the development was first constructed. It is apparent that these dwellings have been used without any adverse impacts, due to the ample parking.

**11. ADEQUACY OF PUBLIC FACILITIES AND SERVICES:** The site has adequate public services, sanitary sewer, water, sidewalks, and public streets.

**12. OTHER APPLICABLE FACTORS:** None.

**13. STAFF COMMENTS:** City Administration recommends approval of the proposed amendment to allow the studies identified in the original PUD to be used as bedrooms, with the following conditions of approval:

1. Modify Condition No. 5 of Ordinance 4581 to increase the number of dwelling units to 87 and to increase the number of bedrooms to 291, as requested by the applicant.
2. Modify Condition No. 6 to increase the total occupancy from 250 to 291 occupants.

**ALTERNATIVES:**

1. Recommend approval of the proposed amendment of Ordinance Nos. 4581 and 7203 and the approved Final Development Plan stating the basis for such recommendation.
2. Recommend approval of the proposed amendment of Ordinance Nos. 4581 and 7203 and the approved Final Development Plan and modify the conditions and any other portions of the proposed PUD amendment to meet the needs of the community as perceived by the Manhattan Urban Area Planning Board, stating the basis for such recommendation, and indicating the conditions of approval.

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3. Recommend denial of the proposed amendment of Ordinance Nos. 4581 and 7203 and the approved Final Development Plan, stating the basis for such recommendation.
4. Table the proposed Amendment to a specific date, for specifically stated reasons.

**POSSIBLE MOTION:**

The Manhattan Urban Area Planning Board recommends approval of the proposed amendment of Ordinance Nos. 4581 and 7203 and the approved Final Development Plan of the Greenbriar Residential Planned Unit Development, based on the findings in the Staff Report, with two (2) conditions of approval.

**PREPARED BY:** Chad Bunger, AICP, CFM, Senior Planner

**DATE:** July 19, 2016

16017}SR}WoodwayApts}GreenbriarPUDAmendment

## **STAFF REPORT**

**REQUEST:** The applicant/owner has requested an amendment of Ordinance No. 6745 and the approved Preliminary Development Plan of Lot 4, McCall Landing Commercial Planned Unit Development to construct an approximate 2,635 square foot commercial building for a Panda Express Gourmet Chinese restaurant with drive-thru. The amendment is in the form of a Final Development Plan.

**The amendment is necessary because the proposed restaurant is on a vacant lot that was approved with the Preliminary Development Plan. Other than the permitted uses that would be allowed on Lot 4, none of the information required to be submitted with a PUD application such as building and floor plans, landscaping, signs, lighting, off-street parking and similar information, was provided. The original applicant had no tenant for Lot 4. Condition 11, Ordinance 6745 (below under EXISTING PUD), was added to insure the PUD requirements are considered, prior to development of Lot 4.**

**APPLICANT:** Klover Architects on behalf of the developer, Panda Restaurant Group

**APPLICANT'S ADDRESS:** 10955 Lowell Avenue, Suite 700, Overland Park, KS

**DEVELOPER:** Panda Restaurant Group

**DEVELOPER'S ADDRESS:** 1683 Walnut Grove Avenue, Rosemead, CA

**OWNER:** Dreiling Real Estate, LLC – Dave Dreiling

**OWNER'S ADDRESS:** 520 McCall Road, Manhattan, KS

**LEGAL DESCRIPTION:** Lot 4, a McCall Landing Commercial Planned Unit Development, to the City of Manhattan, KS.

**LOCATION:** Lot 4 is located northeast of the intersection of McCall Road and Landing Place.

**AREA:** 53,134 square feet (1.22 acres)

**DATE OF NEIGHBORHOOD MEETING:** June 22, 2016.

**DATE OF PUBLIC NOTICE PUBLICATION:** Monday, July 25, 2016.

**DATE OF PUBLIC HEARING: PLANNING BOARD:** Monday, August 18, 2016.

**CITY COMMISSION:** Tuesday, September 6, 2016.

## **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.

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.

### **PROPOSED AMENDMENT**

**Proposed Use and Building:** The proposed rectangular shaped building has an approximate gross floor area of 2,635square feet, The site plan depicts a single lane drive-thru stacking lane approximately 275 feet in length on the west side of the building. Menu and order boards are associated with the drive-thru lane.

The one story building is approximately 24-feet tall to the parapet wall roofline. Exterior materials are primarily EFIS (Exterior Insulation and Finish System), wood looking composite materials, and a dry-stacked stone wainscot. Aluminum canopies will be installed over the doors and drive-thru windows and as architectural accents. The entrances to the restaurant are on the east sides of the building and the drive-thru pickup window on the southwest side of the building. Parapet walls screen roof equipment.

**PROPOSED SIGNS:** Proposed signs consist of wall signs and one skirted pole sign.

Four (4) internally illuminated wall signs are proposed on each façade. The wall sign on the south and west façades will be approximately 49 square feet in area. The east façade will have a wall sign that will be approximately 65 square feet in area. The north façade will have a wall sign that is approximately 40 square feet in area.

The skirted pole sign is 30-feet tall, with a sign that is approximately which total 197 square feet in area. The pole sign is located south of the drive-thru lane and will be approximately 13 feet from the McCall Road right-of-way/southern property line. The sign is in a lawn area. Both types of sign conform to the requirements of the C-2 District and PUD ordinance.

Exempt sign sections changed since adoption of the PUD ordinance (Condition No. 10). Revised exempt signage citation is updated with the amendment, as described in Article VI, Section 6-104 (A)(2)(b), (c), (e), (h), (i), (j), (l) of the Manhattan Zoning Regulations.

**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.

**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 were not shown on the approved Preliminary Development Plan for Lot 4, which relied on market driven demand for the site. Condition # 11 of Ordinance No. 6745 “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.”

**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 because the amendment is required before a building permit can be issued and anticipates commercial development by one or more businesses on Lot 4.

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

- 1. LANDSCAPING:** Landscaping is a combination of grass areas, deciduous shade trees and deciduous shrubs in parking lots islands, the drive-thru lane along McCall Road, with the balance grass lawns, all of which will be maintained by in-ground sprinklers.
- 2. SCREENING:** One trash dumpster area is proposed on the south side of McCall Place north of the restaurant. The trash dumpster space will be enclosed with six foot tall composite wood fence.
- 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.

The Final Development Plan shows that stormwater runoff will be directed to area/curb inlets the in parking lot and driving aisles and then sent to the existing underground stormwater sewer system along McCall Road, which is directly south of the subject site.

BHC Rhodes, submitted an updated Overall Stormwater Compliance Report (*attachment dated June 29, 2016*) summarizing the analysis. The BHC Rhodes consultants compared the amount of impervious surfaces originally assumed for the subject site in the 2008 Schwab-Eaton study to the proposed site plan in the Final Development Plan. The analysis uses "CN" values, which is a coefficient that signifies the runoff potential for the site based on landcover. The 2008 drainage study had an assumed post-construction CN value of 93.42. The stormwater improvements on McCall Road and the surrounding areas were designed and built, in part, to this runoff potential. The proposed development for the Panda Express restaurant has a CN value of 93.10, which is nearly identical to the runoff potential originally assumed for the site.

The Manhattan Public Works Department reviewed and accepts the stormwater management plan and Overall Stormwater Compliance Report with no comments. The surrounding stormwater infrastructure was designed and built to accommodate a development pattern similar to what is being proposed.

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

#### **Overall PUD Circulation**

The McCall Landing 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 is on the west side of the PUD and 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). A travel easement within the Abbott Landing Commercial PUD is located to the west of the site and connects to Landing Place. The Preliminary PUD shows a travel easement extending east of McCullough Place and Lot 1 to connect to the east. 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 4 will be from Landing Place and McCall Place and a private cross-easement across the lot to the east (Pizza Ranch). A private cross-easement has been drafted and agreed to in principle to allow a driving aisle to be created between the subject site and Pizza Ranch. This agreement will be finalized once the land is purchased from the current owner.

The proposed driving aisle across the Pizza Ranch property will eliminate 4 off-street parking spaces from the existing restaurant. Pizza Ranch was approved with 92 spaces, based on the actual seating count and the maximum number of employees working during a shift. The Pizza Ranch restaurant has been in operation since 2014. It appears that there is adequate parking available for existing restaurant. Elimination of the 4 spaces should not create a lack of off-street parking for the business. Additionally, Pizza Ranch willing entered into the agreement with the developer of the Panda Express restaurant.

If the cross-easement agreement is not completed, the area on the Pizza Ranch site will be unchanged. The corresponding area on the Panda Express site will most likely be converted to a landscape area. A revised landscape plan will be required at the time of a building permit if this agreement is not executed.

Internal circulation is to the front of the store from driving aisles connecting to the curb cut on McCall Place, a right-in/right out only intersection with Landing Place and through the Pizza Ranch site. The drive-thru stacking aisle for the drive-thru window is along the north and west sides of the building.

### **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 McCall Road sidewalk connects the restaurant sidewalk to the street sidewalk.

Sidewalk will be constructed on the south side of McCall Place with the development of Lot 4.

A bike rack is shown off the sidewalk connection along McCall Road near the McCall Road sidewalk.

### **Off-street Parking**

The proposed number of off-street parking is based on the requirements for a restaurant, which requires one parking space per three persons based on design occupancy, and one parking space per employee based on the maximum employee shift. The applicant's design occupancy is noted at 82 persons plus 8 employees on the maximum shift. Based on these two totals, 30 off-street parking spaces are required. Forty-six (46) off-street parking spaces are shown on the Final Development Plan. The parking proposed for the development is adequate based on the minimum requirements.

### **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. The developer's consultant, BHC Rhodes analyzed the assumed trips generated by the vacant subject site and the lot that is now Pizza Ranch (Lot 3) (*see attached*). Pizza Ranch was anticipated to be a drive-thru restaurant in the 2008 Traffic Impact Study. The subject site was anticipated to be a bank with a drive-thru in the original traffic study. The BHC Rhodes study found that the actual trips generated by the 2 lots will be less than what was originally anticipated for the vacant within the development.

McCall Road was, in part, designed and constructed with these development patterns and anticipated trips to be generated by the uses.

The Manhattan Public Works Department has reviewed the traffic analysis by BHC Rhodes and accepts its finds with no comments.

**5. OPEN SPACE/LANDSCAPED AND COMMON AREA:** Approximately 22% of Lot 4 is open landscaped space.

**6. CHARACTER OF THE NEIGHBORHOOD:** The neighborhood is a mixture of highway commercial and industrial uses. The areas along McCall Road are transitioning from a historically industrial area, to a retail commercial corridor. Large box retail stores are located to north and southwest. Drive-thru restaurants are located along the five (5) lane minor arterial. There are also a number of strip mall type retail centers in the immediate area. To the north of the development, along Hayes Drive and Levee Drive and predominately industrial and office uses.

### **MATTERS TO BE CONSIDERED WHEN REZONING**

**1. EXISTING USE:** Lot 4 is a vacant commercial tract of land approved with the Preliminary PUD.

**2. PHYSICAL AND ENVIRONMENTAL CHARACTERISTICS:** Grass covered tract located in the 0.2% Annual Chance Floodplain (500 year floodplain). The site is protected by the Manhattan Levee System.

#### **3. SURROUNDING LAND USE AND ZONING:**

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

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

(c.) **EAST:** Pizza Ranch restaurant, K-State Super store and commercial building with drive-n restaurant, McCall Pattern Company, Future Kansas State Federal Credit Union; Commercial PUD and I-2 District.

(d.) **WEST:** Vacant lot, Orschlen's Farm and Ranch store and drive-thru restaurants associated with the Abbott's Landing Development and the USD 383 transportation center; Commercial PUD and 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 4 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 4. No underground liquid fuel storage tanks will be allowed in the PUD. No underground liquid storage is proposed with Lot 4 development.

**7. CONFORMANCE WITH COMPREHENSIVE PLAN:** Lot 4 is in the Northeast Planning Area of the Future Land Use Map of the Manhattan Area 2035 Comprehensive Plan. The site is shown as Community Commercial (CC) on the map. The Future Land Use Map reflects the existing commercial zoning of the site. The proposed PUD Amendment conforms with the Manhattan Urban Area Comprehensive Plan.

**8. ZONING HISTORY AND LENGTH OF TIME VACANT AS ZONED:** The zoning history lists all development to date in McCall Landing PUD.

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.

*Attachment No. 2*

- 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.
- August 19, 2013 Manhattan Urban Area Planning Board recommends approval of an ordinance amending Ordinance No. 6745 and the 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.

*Attachment No. 2*

- September 3, 2013 City Commission approves first reading of an ordinance amending Ordinance No. 6745 and the 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.
- September 17, 2013 City Commission approves Ordinance No. 7038 amending Ordinance No. 6745 and the 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, with three conditions of approval.
- October 7, 2013 Manhattan Urban Area Planning Board recommends approval of the proposed amendment of Ordinance No. 6745 and the Preliminary Development Plan of Lot 3, McCall Landing Commercial Planned Unit Development, to be known as the Final Development Plan of Lot 3, McCall Landing Commercial Planned Unit Development, based on the findings in the Staff Report with Condition 1 recommended by City Administration and Condition 2 recommended by the Planning Board.
- November 5, 2013 City Commission approves first reading of an ordinance amending Ordinance No. 6745 and the Preliminary Development Plan of Lot 3, McCall Landing Commercial Planned Unit Development, as proposed.
- November 19, 2013 City Commission approves Ordinance No. 7052 amending Ordinance No. 6745 and the Preliminary Development Plan of Lot 3, McCall Landing Commercial Planned Unit Development, as proposed.
- February 3, 2014 Manhattan Urban Area Planning Board approves Final Plat of McCall Landing, Unit Two, Commercial PUD.
- February 18, 2014 City Commission accepts easements and rights-of-way as shown on the Final Plat of McCall Landing, Unit Two, Commercial PUD.

- April 18, 2016            Manhattan Urban Area Planning Board recommends approval of the proposed rezoning of the 2.56 acre tract of land at the northwest corner the McCall Pattern Company property from I-2, Industrial Park District, to PUD, McCall Landing Commercial Planned Unit Development; and, amending Ordinance No. 6745 and the Final Development Plan of Lot 2, McCall Landing Commercial PUD, with two conditions of approval.
- May 3, 2016             City Commission approves first reading of an ordinance rezoning a 2.56 acre tract of land generally located at the northwest corner the McCall Pattern Company property as proposed; and, amending Ordinance No. 6745 and the Final Development Plan of Lot 2, McCall Landing Commercial PUD.
- May 17, 2016            City Commission approves Ordinance No. 7211 rezoning a 2.56 acre tract of land generally located at the northwest corner the McCall Pattern property from I-2, Industrial Park District, to McCall Landing Commercial Planned Unit Development; and, amending Ordinance No. 6745 and the Final Development Plan of Lot 2, McCall Landing Commercial PUD, based on the findings in the Staff Report, subject to the two (2) conditions of approval recommended by the Planning Board.

Lot 4 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. 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. The amendment creates no adverse impact on the public improvements or public that is served by those improvements.

**11. ADEQUACY OF PUBLIC FACILITIES AND SERVICES: LOT 4 CAN BE SERVED BY PUBLIC IMPROVEMENTS, INCLUDING STREET, WATER, FIRE SERVICE AND SANITARY SEWER. MCCALL ROAD WAS UPGRADED TO A FIVE LANE 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. THE IMPROVEMENTS WERE MADE TO SERVE THE MCCALL LANDING PUD AND GROWTH IN THE MCCALL ROAD CORRIDOR.**

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

**13. STAFF COMMENTS:** All conditions of approval, not in conflict with Ordinance No. 6745 remain in effect. City Administration recommends approval of a proposed amendment of Ordinance No. 6745 and the approved Preliminary Development Plan of Lot 4, McCall Landing Commercial Planned Unit Development, to be known as the Final Development Plan of Lot 4, McCall Landing Commercial Planned Unit Development for the proposed Panda Express Gourmet Chinese drive-thru restaurant, with the following condition of approval:

1. Exempt sign sections changed since adoption of the PUD ordinance (Condition No. 10). Revised exempt signage citation is updated with the amendment, as described in Article VI, Section 6-104 (A)(2)(b), (c), (e), (h), (i), (j), (l) of the Manhattan Zoning Regulations.

#### **ALTERNATIVES:**

1. Recommend approval of the proposed amendment of Ordinance No. 6745 and the approved Preliminary Development Plan of Lot 4, McCall Landing Commercial Planned Unit Development, to be known as the Final Development Plan of Lot 4, 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 4, McCall Landing Commercial Planned Unit Development, to be known as the Final Development Plan of Lot 4, 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.

**POSSIBLE MOTION:**

The Manhattan Urban Area Planning Board recommends approval of the proposed Ordinance No. 6745 and the approved Preliminary Development Plan of Lot 4, McCall Landing Commercial Planned Unit Development, to be known as the Final Development Plan of Lot 4, McCall Landing Commercial Planned Unit Development Panda Express Gourmet Chinese drive-thru restaurant, based on the findings in the Staff Report, subject to one condition of approval recommended by City Administration.

**PREPARED BY:** Chad Bungler, AICP, Senior Planner.

**DATE:** August 5, 2016.

**STAFF REPORT**

**ON AN APPLICATION TO REZONE PROPERTY**

**FROM:** Riley County AG, Agriculture District  
Pottawatomie County, A1, Agriculture District

**TO:** I-3, Light Industrial District

**APPLICANT/OWNERS:** City of Manhattan – Ron Fehr, City Manager

**ADDRESS:** 1101 Poyntz Avenue, Manhattan, KS

**LEGAL DESCRIPTION:** A tract of land located in the Northeast Quarter of Section 17, the Northwest Quarter of Section 16, Section 8, and the West Half of Section 9, all in Township 10 South, Range 8 East in Riley and Pottawatomie County, Kansas

**LOCATION:** generally located along U.S. Highway 24 and the Linear Trail area.

**AREA:** 185.14 acres

**DATE OF NEIGHBORHOOD MEETING:** June 2, 2016

**DATE OF PUBLIC NOTICE PUBLICATION:** July 11, 2016

**DATE OF PUBLIC HEARING: PLANNING BOARD:** August 1, 2016

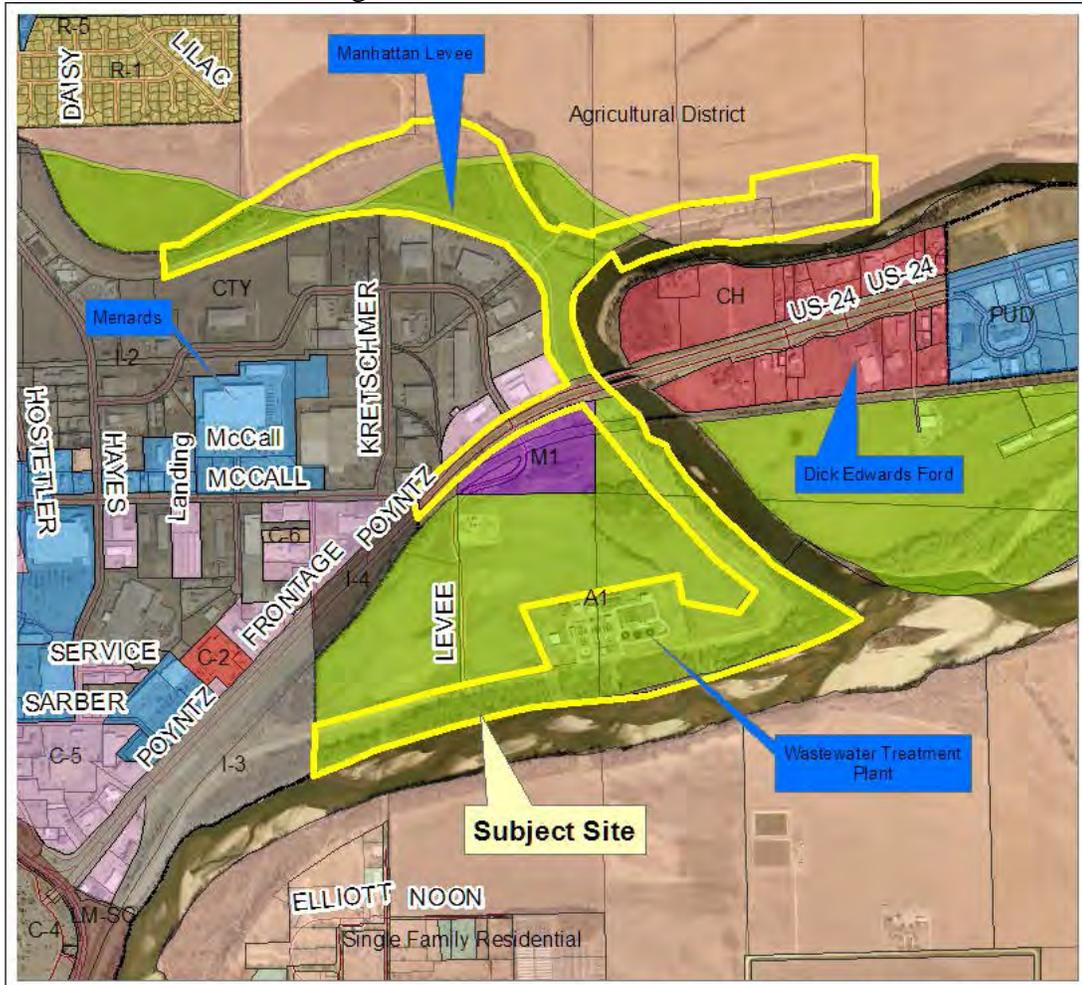
**CITY COMMISSION:** September 9, 2016

**THIRTEEN MATTERS TO BE CONSIDERED WHEN REZONING**

- 1. EXISTING USE:** City's Waste Water Treatment Plant and vacant land associated with the Manhattan Levee System.
- 2. PHYSICAL AND ENVIRONMENTAL CHARACTERISTICS:** The land associated with the Manhattan Levee System, which is a man-made flood protection structure designed protects parts of the City from the flood risks from the Blue River and Kansas River. The Linear Trail is located on the Levee. The land associated with the Waste Water Treatment Plant is generally flat and is adjacent to the Manhattan Levee System.

**3. SURROUNDING LAND USE AND ZONING:**

A variety of land uses and City, Riley County and Pottawatomie County zoning districts surround the rezoning site. See the map below to gain an understanding of the various land uses and zoning districts in the area.



**Manhattan Zoning**

- R-1
- R-2
- R-5
- C-2
- C-5
- C-6
- I-2
- I-3
- I-4
- LM-SC
- PUD

**Riley Co. Zoning**

- Agricultural District
- CPUD
- Highway Business
- Mobile Home Park
- Single Family Residential
- University

**Pottawatomie Co. Zoning**

- A1
- CH
- M1
- rezoning site
- City Boundary



1,000 500 0 Feet



- 4. GENERAL NEIGHBORHOOD CHARACTER:** The area surrounding the subject site is a wide mix of commercial, industrial, residential and agricultural uses. The land adjacent to the Waste Water Treatment Center is generally agriculture land uses for row crops.

The land surrounding the levee system is commercial and industrial corridors along U.S. Highway 24 and McCall Road, vacant agricultural land in the Big Blue River Floodplain and the established residential neighborhood in the Dix and Northview Neighborhoods.

- 5. SUITABILITY OF SITE FOR USES UNDER CURRENT ZONING:** The site is currently located in rural Pottawatomie and Riley County and zoned Pottawatomie County, A1, Agriculture District and Riley County AG, Agriculture District.

The existing use conforms to the current zoning district in Riley County.

- 6. COMPATIBILITY OF PROPOSED DISTRICT WITH NEARBY PROPERTIES AND EXTENT TO WHICH IT MAY HAVE DETRIMENTAL AFFECTS:** No changes to the existing use is proposed at this time. The City is requesting the annexation and rezoning so that the City owner property is within the City's jurisdiction, which increase response times for emergency services, such a police and fire. No development is proposed on the subject site. The land will stay devoted to flood protection and for the treatment of waste water for the City and surrounding areas.

The applicant held a neighborhood meeting on June 2, 2016. No one attended the meeting.

The proposed rezoning should not adversely impact the nearby properties.

- 7. CONFORMANCE WITH COMPREHENSIVE PLAN:** The unplatted City owned land where the Waste Water Treatment Plan is shown on the Future Land Use Map of the Manhattan Urban Area Comprehensive Plan as Public/Semi-Public. The area devoted to the Manhattan Levee System and Linear Trail is designated as Preserved Open Space with Special Floodway Overflow Area designations. No specific land use policies are established for these 3 land categories.

Chapter 4: Preserve and Enhance Natural Resources and Promote Resiliency establishes policies and goals to creating and maintaining open space for the preservation of environmentally sensitive areas and to make the communities more resilient. No developments are proposed for the subject site at this time. The land is owned by the City, who is devoted to maintaining the existing open space and trails

along the levee system, as well as the on-going maintenance of the waste water treatment plant and the levee system to provide the required utility and flood protection.

The proposed annexation of subject site conforms to the policy of the Manhattan Urban Area Comprehensive Plan.

- 8. ZONING HISTORY AND LENGTH OF TIME VACANT AS ZONED:** The Manhattan Levee System was completed in 1964 and has been maintained by the City ever since.

The Waste Water Treatment Plan was first constructed in 1974 by the City, with frequent facility updates. The most recent facility expansion and update was completed in 2013.

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

The intent and purpose of the Manhattan 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 proposed rezoning is consistent with the intent and purpose of the Manhattan Zoning Regulations. The I-3 District designed to allow manufacturing, processing, assembly, and nonretail service activities. The rezoning site generally conforms to the requirements of the I-3 District.

- 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. There are no expected adverse affects on the public health, safety and welfare as a result of the rezoning. The purpose of the rezoning is to improve public safety by bringing the 2 public infrastructure facilities into the City's jurisdiction so that emergency response times by Riley County Police Department, Manhattan Fire Department and other agencies are improved.

- 11. ADEQUACY OF PUBLIC FACILITIES AND SERVICES:** Adequate street, sanitary sewer, water and fire services are available to serve the rezoning site.

- 12. OTHER APPLICABLE FACTORS:** None.

*Attachment No. 3*

**13. STAFF COMMENTS:** City Administration recommends approval of the proposed rezoning of City of Manhattan owned property associated with the Wastewater Treatment Plant and the Manhattan Levee System from Riley County AG, Agriculture District and Pottawatomie County, A1, Agriculture District to I-3, Light Industrial District, based on the findings in the Staff Report.

**ALTERNATIVES:**

1. Recommend approval of the proposed rezoning of City of Manhattan owned property associated with the Wastewater Treatment Plant and the Manhattan Levee System from Riley County AG, Agriculture District and Pottawatomie County, A1, Agriculture District to I-3, Light Industrial District, based on the findings in the Staff Report.
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 City of Manhattan owned property associated with the Wastewater Treatment Plant and the Manhattan Levee System from Riley County AG, Agriculture District and Pottawatomie County, A1, Agriculture District to I-3, Light Industrial District, based on the findings in the Staff Report.

**PREPARED BY:** Chad Bunger, AICP, CFM, Senior Planner

**DATE:** July 21, 2016