



MINUTES
SPECIAL CITY COMMISSION MEETING
TUESDAY, OCTOBER 11, 2016
7:00 P.M.

The Special 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, 7 staff, and approximately 20 interested citizens.

PLEDGE OF ALLEGIANCE

Mayor Reddi led the Commission in the Pledge of Allegiance.

PROCLAMATIONS

Mayor Reddi proclaimed October 17-21, 2016, ***Careers in Energy Week***. Jim Genandt, President; Marilyn Mahan, Vice President for Instruction; Colton Heffern and Randy Harvey, Electric Power and Distribution students; and Justin Meuli, Faculty Member, Electric Power and Distribution, were present to receive the proclamation.

Mayor Reddi proclaimed October 2016, ***National Arts and Humanities Month***. Barbara Nelson, Treasurer, Aha! Manhattan, was present to receive the proclamation.

Mayor Reddi proclaimed October 2016, ***National Community Planning Month***. Karen Davis, Director; Eric Cattell, Assistant Director for Planning; and Chad Bunger, Senior Planner, City of Manhattan Community Development Department; Gary Stith, Director, Flint Hills Regional Council; and Stephanie Rolley, Professor and Department Head, Landscape Architecture & Community Planning, Kansas State University, were present to receive the proclamation.

PUBLIC COMMENTS

Mayor Reddi opened the public comments.

Hearing no comments, Mayor Reddi closed the public comments.

COMMISSIONER COMMENTS

Commissioner McCulloh informed the community that she and Captain Josh Kyle were on a panel at the recent Kansas League of Municipalities Conference. She also discussed the Kansas Humanities Council and the need for the State to fund the Kansas Arts Council and realize the significance that arts and humanities bring to our communities.

Commissioner Butler stated that the City and Riley County Commissioners will be appointing people to serve on the Riley County Law Board beginning next year. He highlighted the positions of those serving on the Law Board and encouraged citizens and Citizen Advisory Board members to the Law Board interested in serving on the Law Board to fill out an interest form on the City of Manhattan website or contact the Riley County Commission within the next few weeks.

Mayor Reddi said that more applicants for City boards and committees are needed and encouraged those interested to apply on the City's website. She highlighted the recent Association of the United States Army (AUSA) Conference and meetings with legislative staff representatives and sessions attended at the League of Kansas Municipalities Conference. She provided the election date, the upcoming deadline to register to vote, and referenced the Riley County Election website for additional information. Finally, she discussed the online survey to provide feedback on pedestrian trails in the community.

Eddie Eastes, Director of Parks and Recreation, provided additional information regarding the online survey available and highlighted the phone interviews and focus groups that would be occurring regarding pedestrian trails.

Scott French, Director of Fire Services, encouraged the community to join the Fire Department personnel at the Headquarters Fire Station on Sunday, October 16, 2016, for their annual open house.

CONSENT AGENDA
(* denotes those items discussed)

MINUTES

The Commission approved the minutes of the Regular City Commission Meeting held Tuesday, September 20, 2016, and the Special City Commission Meeting held Tuesday, September 27, 2016.

CLAIMS REGISTER NO. 2831

The Commission approved Claims Register No. 2831 authorizing and approving the payment of claims from September 14, 2016, to October 4, 2016, in the amount of \$4,822,147.08.

* **ORDINANCE NO. 7249 – REASSESS SPECIALS – NO STONE UNTURNED PUD**

Ron Fehr, City Manager, responded to questions from the Commission regarding the reassessment and relieving of the special assessment.

Brian Johnson, City Engineer, provided additional information regarding the reassessment of the specials and access to public infrastructure.

The Commission approved Ordinance No. 7249 authorizing the reassessment and relieving of the special assessment; and No Stone Unturned PUD Property (formerly the JenTre Addition).

* **AGREEMENT – REASSESS SPECIALS – NO STONE UNTURNED PUD**

Ron Fehr, City Manager, responded to questions from the Commission regarding the reassessment and relieving of the special assessment.

Brian Johnson, City Engineer, provided additional information regarding the reassessment of the specials and access to public infrastructure.

The Commission authorized the Mayor and City Clerk to execute the Reassessment Agreement.

ORDINANCE NO. 7250 – AMEND - NOISE

The Commission approved Ordinance No. 7250 amending Sections 22-54 to 22-58 and Sections 6-24 and 21-12 of the Code of Ordinances relating to noise.

FIRST READING – ADOPT – 2016 STANDARD TRAFFIC ORDINANCE

The Commission approved first reading of an ordinance incorporating by reference the Standard Traffic Ordinance for Kansas Cities, Edition of 2016, with amendments as set forth in the ordinance.

CONSENT AGENDA (CONTINUED)

FIRST READING – AMEND SCHOOL ZONE – LEE SCHOOL

The Commission approved first reading of an ordinance amending Chapter 31 of the Code of Ordinances to expand the “School Zone” location for the Lee School pedestrian crossing and recognize the relocation of the “School Zone” flashing signal.

* REQUEST FOR QUALIFICATIONS – AIRPORT – 2017-2021 ARCHITECT/ENGINEER/PLANNING SERVICES

Jesse Romo, Airport Director, provided information on the item to issue a Request for Qualifications to interested firms for projects slated for the next five-year timeframe for architectural, engineering, and planning services for the Manhattan Regional Airport. He also highlighted several major projects in the next five years.

Ron Fehr, City Manager, provided additional information on the item and informed the Commission that the Federal Aviation Administration recommends a five-year consultant team of airport planners and engineers for complex and multi-year projects. He stated that the Commissioner appointment to serve on the Selection Committee is not needed right away and can be addressed next week.

The Commission authorized City Administration to issue a Request for Qualifications for architectural, engineering, and planning services for the Manhattan Regional Airport improvement projects programmed between 2017 and 2021.

AWARD CONTRACT – 17TH STREET AND POYNTZ AVENUE INTERSECTION IMPROVEMENTS (ST1610, CIP #TR049P)

The Commission accepted the Engineer’s Opinion of Probable Cost in the amount of \$193,000.00; awarded a construction contract in the amount of \$148,230.00 to L&S Electrical, LLC, of Salina, Kansas; and authorized the Mayor and City Clerk to execute the construction contract for the 17th Street and Poyntz Avenue Intersection Improvements (ST1610, CIP #TR049P).

RESOLUTION NO. 101116-A – BOND - 17TH STREET AND POYNTZ AVENUE INTERSECTION IMPROVEMENTS (ST1610, CIP #TR049P)

The Commission approved Resolution No. 101116-A to issue General Obligation bonds for the 17th Street and Poyntz Avenue Intersection Improvements (ST1610, CIP #TR049P).

CONSENT AGENDA (CONTINUED)

AWARD CONTRACT – WASTEWATER TREATMENT PLANT BIOSOLIDS FARM LAGOON DESLUDGING PROJECT (SS1612, CIP #WW153P)

The Commission awarded a construction contract to the lowest bidder, Hodges Farms and Dredging, of Lebo, Kansas; and authorized the Mayor and City Clerk to execute the construction contract in the amount of \$103,898.88 with Hodges Farms and Dredging for the Wastewater Treatment Plant Biosolids Farm Lagoon Desludging Project (SS1612, CIP #WW153P), with the project to be paid from the Wastewater Fund.

CHANGE ORDER NO. 1 - WASTEWATER TREATMENT PLANT BIOSOLIDS FARM LAGOON DESLUDGING PROJECT (SS1612, CIP #WW153P)

The Commission authorized the Mayor to execute Change Order No. 1 increasing the amount of sludge removal for a net amount of \$36,000.00 (+25.7%) increasing the total project cost to \$139,898.88 to the contract with Hodges Farms and Dredging, of Lebo, Kansas, for the Wastewater Treatment Plant Biosolids Farm Lagoon Desludging Project (SS1612, CIP #WW153P).

KDOT AGREEMENT – SAFE ROUTES TO SCHOOL INFRASTRUCTURE, PHASE II (ST1613)

The Commission authorized the Mayor and City Clerk to execute City-State Agreement No. 355-16 for the Safe Routes to School Infrastructure, Phase II, project (ST1613) with a maximum \$200,000.00 commitment from the Kansas Department of Transportation (KDOT) for sidewalk and crosswalk improvements at various locations.

KDOT AGREEMENT – JULIETTE AVENUE BRICK STREET REHABILITATION, PHASE 2 (ST1614)

The Commission authorized the Mayor and City Clerk to execute City-State Agreement No. 353-16 for the Juliette Avenue Brick Street Rehabilitation, Phase 2, project (ST1614) with a KDOT share of \$452,582.00 for improvements from Laramie Street to Osage Street.

*

KDOT AGREEMENT – OLD BIG BLUE RIVER BEAUTIFICATION, PHASE 5, AND MULTI-USE TRAIL (SM1605)

Ron Fehr, City Manager, responded to questions from the Commission and provided an overview of the item.

Brian Johnson, City Engineer, presented a diagram on the multi-use trail and KDOT agreement. He then responded to questions from the Commission.

CONSENT AGENDA (CONTINUED)

* **KDOT AGREEMENT – OLD BIG BLUE RIVER BEAUTIFICATION, PHASE 5, AND MULTI-USE TRAIL (SM1605) (CONTINUED)**

Rob Ott, City Engineer, provided additional information on the KDOT agreement.

Karen Davis, Director of Community Development, provided information on the use of Community Development Block Grant (CDBG) funds for the match component.

The Commission authorized the Mayor and City Clerk to execute City-State Agreement No. 354-16 for the Old Big Blue River Beautification, Phase 5, and Multi-Use Trail project (SM1605) with a KDOT share of \$1,122,372.00 for stormwater improvements north of McCall Road and a pedestrian crossing at Tuttle Creek Boulevard and McCall Road.

AMENDMENT – AIRPORT LEASE – HEARTLAND AVIATION, INC.

The Commission authorized the Mayor and City Clerk to execute an Amendment to the Airport Agreement with Heartland Aviation, Inc., amending the Leased Space.

PURCHASE – TRAFFIC DIVISION – PORTABLE VARIABLE MESSAGE BOARDS (CIP #TR047E)

The Commission authorized the purchase of two (2) Portable Variable Message Boards (CIP #TR047E) for the Traffic Division, in the amount of \$28,125.00, from K&K Systems, Inc., of Tupelo, Mississippi, to be paid from the General Fund.

* **PURCHASE – TRAFFIC DIVISION - ROAD WEATHER INFORMATION SYSTEM EXPANSION ITS (SP1615, CIP #TR050P)**

Brian Johnson, City Engineer, and Rob Ott, Director of Public Works, responded to questions from the Commission and provided clarification of the item.

The Commission authorized the purchase of a Road Weather Information System (RWIS) Expansion ITS (CIP #TR050P), in the amount of \$21,540.00, from Gades Sales, Inc., of Wichita Kansas, to be paid from the General Fund.

After discussion and comments from the Commission, Commissioner Morse moved to approve the consent agenda. Commissioner McCulloh seconded the motion. On a roll call vote, motion carried 5-0.

GENERAL AGENDA

FIRST READING – AMEND FINAL DEVELOPMENT PLAN - K-MART COMMERCIAL PLANNED UNIT DEVELOPMENT (PLAZA DE MARIA)

Eric Cattell, Assistant Director for Planning, presented an overview of the item. He highlighted the proposed development, subject site, landscape plan, parking plan, and the existing cross private agreements. He then responded to questions from the Commission regarding the existing outbuilding, access to the site, setbacks, and adequate space for pedestrians.

Mayor Reddi opened the public comments.

Hearing no comments, Mayor Reddi closed the public comments.

After discussion and comments from the Commission, Commissioner Morse moved to approve first reading of an ordinance amending Ordinance Nos. 4635, 5027, 6359, 6603 and 6721 and the Final Development Plan of the K-Mart Commercial Planned Unit Development, as proposed, to be known as the Plaza De Maria Final Development Plan, based on the findings in the Staff Report (*See Attachment No. 1*), with the nine (9) conditions of approval, as recommended by the Manhattan Urban Area Planning Board. Commissioner McCulloh seconded the motion. On a roll call vote, motion carried 5-0.

FIRST READING - 2017 SERVICE FEES - AGGIEVILLE AND DOWNTOWN BUSINESS IMPROVEMENT DISTRICTS

Karen Davis, Director of Community Development, presented an overview of the item. She highlighted the Aggieville Business Improvement District with 105 businesses and provided a map showing the Aggieville Business Improvement District. She stated the Downtown Business Improvement District includes 320 businesses and presented a map showing the Downtown Business Improvement District. She stated the proposed fees for 2017 will remain the same for Downtown, that late fees would be removed for both Districts, and provided changes in the enforcement section. She informed the Commission that the Aggieville Business Improvement District Advisory Board and the Downtown Business Improvement District Advisory Board met in late August to confirm the list of recommendations.

Gina Scroggs, Executive Director, Downtown Manhattan, Inc. (DMI), provided additional information regarding the Downtown Business Improvement District and voiced concerns with the process. She informed the Commission that DMI has no legal authority over the businesses downtown and are limited on what information they can receive about the business owner, manager or operator. She also voiced concern with the language in the ordinance that would allow the City of Manhattan to prosecute a manager. She stated that the manager may be a 19-year-old student that has no responsibility in paying bills and asked if there would be a way to eliminate the non-responsible party.

GENERAL AGENDA (*CONTINUED*)

FIRST READING - 2017 SERVICE FEES - AGGIEVILLE AND DOWNTOWN BUSINESS IMPROVEMENT DISTRICTS (*CONTINUED*)

Linda Vescio, Administrative Assistant, DMI, provided additional information regarding the difficulty to get contact information for every business.

Karen Davis, Director of Community Development, provided additional information on the proposed ordinance and responded to questions regarding enforcement.

Katie Jackson, City Attorney, informed the Commission that the goal of the City is to find the person responsible and for some businesses, the manager is the responsible party. She then responded to questions from the Commission regarding the enforcement provisions and provided clarification on the language in the ordinance.

Gina Scroggs, Executive Director, Downtown Manhattan, Inc. (DMI), stated that her concern is the 19-year-old manager is not the owner and is not responsible for paying the bills. She responded to questions from the Commission.

Linda Vescio, Administrative Assistant, DMI, informed the Commission that some businesses have an office, but may only show up once a month for an hour or less. She reiterated the challenges to gather information from some businesses.

Karen Davis, Director of Community Development, responded to questions from the Commission regarding the mechanism to know who is operating a business and stated that business licenses are not required for Manhattan.

After discussion and comments from the Commission, Gina Scroggs, Executive Director, DMI, informed the Commission that no one is legally required to provide DMI information on the owner of the business. She reiterated her concern with the enforcement provisions dealing with a manager that has no authority regarding the business and asked for clarification what this enforcement means.

Katie Jackson, City Attorney, provided additional information regarding the language in the proposed ordinance and informed the Commission that some of the concerns expressed can be remedied by changing the contract, without changing the ordinance.

Karen Davis, Director of Community Development; Jason Hilgers, Deputy City Manager; and Ron Fehr, City Manager, responded to additional questions and provided information regarding efforts to identify the responsible party, outlined the notification process, and presented collection options.

GENERAL AGENDA (*CONTINUED*)

FIRST READING - 2017 SERVICE FEES - AGGIEVILLE AND DOWNTOWN BUSINESS IMPROVEMENT DISTRICTS (*CONTINUED*)

Gina Scroggs, Executive Director, Downtown Manhattan, Inc. (DMI), stated that she had no problem enforcing nonpayment, but asked about the enforcement aspects and the substance in Item B, Section 9 of the proposed ordinance.

Katie Jackson, City Attorney, responded to additional questions and presented options for nonpayment and enforcement considerations.

Karen Davis, Director of Community Development, provided additional information on the process and informed the Commission that there have been times when a manager was named because officials had no other option. She stated that the City and DMI can work through these issues.

Commissioner McCulloh stated that it is unfair to those businesses that pay their Business Improvement District (BID) fees when other businesses do not. She said using municipal court seems appropriate to collect nonpayment. She stated that the City has spent millions of dollars and made a significant investment downtown.

Mayor Reddi asked if DMI should collect the BID fees. She stressed the importance for good communications.

Gina Scroggs, Executive Director, Downtown Manhattan, Inc. (DMI), informed the Commission that she did not want to get rid of the Business Improvement District. She stated the only piece that she was concerned with was the non responsible party being potentially prosecuted and the reiterated the challenges getting business owner names without having a legal relationship.

Mayor Reddi opened the public comments.

Evan Grier, owner of Harry's Restaurant and Bourbon & Baker, informed the Commission that Gina Scroggs serves as a primary point of contact for our businesses and is a friendly face downtown. He stated that regardless of the teeth behind the ordinance, relationships need to be able to be built.

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

After further comments from the Commission, Katie Jackson, City Attorney, provided additional information on the proposed ordinance and enforcement provisions.

GENERAL AGENDA (CONTINUED)

FIRST READING - 2017 SERVICE FEES - AGGIEVILLE AND DOWNTOWN BUSINESS IMPROVEMENT DISTRICTS (CONTINUED)

Commissioner Butler voiced opposition regarding Section 9.B. Enforcement of the proposed ordinance. He stated that the language is draconian and removal of the language would protect us from unintended consequences of people we do not want to prosecute.

Commissioner Dodson requested that the language in the proposed ordinance be further reviewed by the City Manager prior to second reading and asked that City staff take a hard look at the contract.

Ron Fehr, City Manager, stated that City staff would examine the ordinance between now and second reading. He highlighted the changes made in the ordinance and informed the Commission that removal of the language in the Enforcement section would eliminate the City's ability to use municipal court to enforce collections. He stated that if that happened, the process would likely involve a collection agency at a higher cost to the business and stated the City's goal is to gain compliance.

After discussion and additional comments from the Commission, Commissioner Morse moved to approve first reading of ordinances levying Business Improvement Service Fees for 2017 on businesses located within the Aggieville and Downtown Business Improvement Districts. Commissioner McCulloh seconded the motion.

Commissioner Butler stated that he could not support the item as proposed and reiterated his concerns regarding the enforcement provision in the proposed ordinance.

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

FIRST READING - AMEND ZONING REGULATIONS - CREATE MBPO, MANHATTAN BUSINESS PARK OVERLAY DISTRICT

Eric Cattell, Assistant Director for Planning, presented an overview of the item. He highlighted the overlay district, reasons for the proposed amendment to the zoning regulations, and discussed the permitted and prohibited uses. He then responded to questions from the Commission regarding the proposed name change from the Manhattan Corporate Technology Park to the Manhattan Business Park.

Mayor Reddi opened the public comments.

GENERAL AGENDA (*CONTINUED*)

FIRST READING - AMEND ZONING REGULATIONS - CREATE MBPO, MANHATTAN BUSINESS PARK OVERLAY DISTRICT (*CONTINUED*)

Lyle Butler, President/Chief Executive Officer (CEO), Manhattan Area Chamber of Commerce, provided additional information on what was originally envisioned at the Manhattan Corporate Technology Park and discussed the needs today. He stated that there is ongoing discussion about rebranding and increasing marketing efforts to businesses on a larger scale that includes the Manhattan Business Park, the Manhattan Regional Airport, the Fixed Base Operator, and adjacent land opportunities. He also highlighted the improved roadway system and expanded water system to the area.

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

Ron Fehr, City Manager, provided additional information on the item. He discussed the research and technology facilities available at Kansas State University.

Katie Jackson, City Attorney, provided information on the enforcement of covenants at the Manhattan Corporate Technology Park.

Eric Cattell, Assistant Director for Planning, responded to questions from the Commission regarding permitted and prohibited uses.

Lyle Butler, President/CEO, Manhattan Area Chamber of Commerce, provided an update on signage efforts for the Manhattan Business Park and the Chamber's commitment to work with the region on economic development efforts.

After discussion and additional comments from the Commission, Commissioner Morse moved to approve first reading of an ordinance amending the Manhattan Zoning Regulations Article IV Part 3 Industrial Districts, Section 4-307, to replace the CTPO, Corporate Technology Park Overlay District, with the proposed MBPO, Manhattan Business Park Overlay District, based on the findings in the Staff Memorandum (*See Attachment No. 2*) and the recommendation of the Planning Board. Commissioner Dodson seconded the motion. On a roll call vote, motion carried 5-0.

2016 THIRD QUARTER REPORT - CONVENTION AND VISITOR'S BUREAU (CVB)

Evan Grier, owner of Harry's Restaurant and Bourbon & Baker, introduced the item and presented Smith Travel Research for Manhattan year-to-date figures through August for occupancy, Average Daily Rate (ADR), Revenue per available room (RevPAR), supply, demand, and revenues.

GENERAL AGENDA (CONTINUED)

2016 THIRD QUARTER REPORT - CONVENTION AND VISITOR'S BUREAU (CVB) (CONTINUED)

Karen Hibbard, Director, Manhattan Convention and Visitors Bureau (CVB), presented the new website and features for the CVB, demonstrated a mobile-friendly website, highlighted their partnership with K-State Sports, and presented a video virtual tour of four hotels that showcase the wonderful offerings in Manhattan.

Evan Grier, owner of Harry's Restaurant and Bourbon & Baker, responded to questions from the Commission regarding the increased occupancy numbers.

Karen Hibbard, Director, Manhattan Convention and Visitors Bureau (CVB), responded to questions from the Commission. She provided additional information on the increased occupancy numbers and special events held in July and August, 2016.

Mayor Reddi opened the public comments.

Hearing no comments, Mayor Reddi closed the public comments.

After comments from the Commission, no formal action was taken on the item.

ADJOURNMENT

At 9:40 p.m., the Commission adjourned.



Gary S. Fees, MMC, City Clerk

STAFF REPORT

AN AMENDMENT OF ORDINANCE NOS. 4635, 5027, 6359, 6603 AND 6721 AND THE APPROVED FINAL DEVELOPMENT PLAN OF THE K-MART COMMERCIAL PLANNED UNIT DEVELOPMENT. THE PUD AMENDMENT IS IN THE FORM OF A FINAL DEVELOPMENT PLAN TO BE KNOWN AS PLAZA DE MARIA

BACKGROUND

APPLICANT/OWNER: MKKM, LLC – Sam Devinki, Managing Member

ADDRESS: 4901 Warnall Road, Suite 10, Kansas City, Missouri

LOCATION: Generally located northeast corner of the East Poyntz Avenue Frontage Road and Saber Lane.

AREA: 408,258 square feet (9.37 acres)

DATE OF PUBLIC NOTICE PUBLICATION: August 18, 2016

DATE OF PUBLIC HEARING: PLANNING BOARD: September 8, 2016
CITY COMMISSION: October 11, 2016

EXISTING PUD

EXISTING PUD ORDINANCE AFFECTING LOT 1, K-MART ADDITION, UNIT 2

Ordinance No. 4635

Ordinance No. 4635 was the ordinance that established the K-Mart Commercial Planned Unit Development in March, 1990. The permitted uses are listed as a discount department store, with a garden center and auto service center and a grocery store. The 7 conditions of approval for the PUD are:

1. Permitted uses shall be limited to the following: a discount department store with a garden center and auto service center; and a grocery store.
2. All landscaping, berms and irrigation systems shall be provided as shown in the Preliminary Development Plan documents with the following additions:
 - a. All parking lot landscape islands shall be irrigated with in-ground sprinklers;
 - b. All trees shall be a minimum 2 ½ caliper in size at the time of planting;

Attachment No. 1

- c. Landscaping shall be added in the Sarber Lane right-of-way along the west side of the parking lot from the intersection of Sarber Lane and the US 24 Frontage road north approximately 320 feet to the west parking lot entrance. This landscaping shall consist of deciduous trees spaced no more than 25 feet apart with evergreen shrubs planted between the trees to buffer the parking lot.
 - d. Additional deciduous trees shall be provided along US 24 Frontage Road property line along the perimeter of the parking lot so that spacing between trees shall be no more than 25 feet.
3. On-going maintenance of the landscaping, berms, and irrigation systems located within the PUD and in abutting public rights-of-way shall be the responsibility of the landowner, including replacement of landscaping, berms and irrigation systems that are removed by utility companies and/or the City for utility or street repairs.
 4. Security for the performance of the landscaping, berms and in-ground irrigation as required by this ordinance, shall be provided pursuant to an agreement between the City and the landowner and /or K-Mart prior to the issuance of a building permit. The required landscaping, berms and in-ground irrigation shall be installed by the first planting season after construction of the K-Mart Auto Center.
 5. Signage shall be limited to the wall signs as shown in the Preliminary Development Plan documents, but shall not include the slogan wall sign "The Saving Place." No pole or ground signs shall be permitted and no temporary signage shall be permitted.
 6. All trash dumpsters shall be screened with a minimum 6 foot tall sight obscuring screening. All dumpsters shall be located at the rear of the main K-Mart building and shall not be located around the auto center building or garden center.
 7. A Final Plat of the PUD shall be submitted concurrently with the Final Development Plan.

Ordinance No. 5027

A revised signage plan for the auto center out building was approved by Ordinance No. 5027 on April 1, 1997. The 1 condition of approval was to ensure the signage was installed as proposed in the application documents.

Ordinance No. 6359

Ordinance No. 6359 was approved on September 2, 2003 to allow for a new pole (pylon) sign along the frontage road of U.S. Highway 24 and to alter the approved landscape plan. The ordinance was approved with the following conditions of approval.

1. The pole sign shall be constructed and located as proposed and a sign permit shall be obtained prior to construction.
2. The removal of existing deciduous trees and the planting of a dwarf species variety to include crabapple, maple, or redbud, shall be as shown on the Landscaping Plan.

Attachment No. 1

3. The trees that have been removed from the approved Ordinance No. 4635 Landscaping Plan shall be replaced with a dwarf tree species to include crabapple, maple, or redbud varieties.
4. With the exception of the two (2) trees to be removed for the placement of the pole sign, existing trees shall not be removed or replaced along the U.S. 24 Frontage Road and Sarber Lane property lines prior to a new Landscaping Performance Agreement between the City and the owner.

Ordinance No. 6603

The PUD was amended on January 23, 2007 by Ordinance No. 6603 to expand the Permitted Uses to generally include the permitted uses of the C-2, Neighborhood Shopping District; to allow temporary and seasonal outdoor display and storage of merchandise and goods; to allow a reduction in the number of off-street parking spaces; to modify and remodel the vacant grocery store building and modify the signage plan on said building; and, to modify and expand the landscaping plan. The conditions of approval are as followed.

1. Permitted Uses shall include: all of the Permitted Uses of the C-2, Neighborhood Shopping District and include: Fabric stores, Financial services, and Office supplies; and exclude from the list of C-2 District Permitted Uses the following, which shall not be permitted: Air conditioning, heating and plumbing sales; Churches, chapels, temples and synagogues; and Convenience stores.
2. Building façade and signs shall be provided, as proposed.
3. Exempt signage shall be permitted as described in Article VI, Section 6-104 (A)(1),(2),(4),(5),(7) and (8); and Section 6-104 (B)(2), of the Manhattan Zoning Regulations. Temporary sales aids and portable signs, as described in Article VI, Signs, of the Manhattan Zoning Regulations, shall be prohibited.
4. Seasonal outdoor display, storage and sales shall be limited to the parking lot in front of K-Mart, to the west of the K-Mart Garden Center, and along the front of the buildings, as shown on the application documents.
5. Seasonal sales shall be limited to a period from March 1st to Labor Day weekend of each year.
6. Seasonal sales shall include merchandise and goods such as, but not limited to, live landscape stock and related materials consisting of lawn chairs/furniture, overstock palletized goods and palletized rock/dirt and similar merchandise and goods.
7. Sidewalk sales shall be limited to a one (1) week period during the weeks of Memorial Day, July 4th, and Labor Day.
8. Landscaping shall be maintained in good condition by the property owner.
9. The underground irrigation system shall be used to irrigate landscaping.
10. Landscaping shall be provided consistent with approved landscaping plans.
11. A Landscaping Performance Agreement between the City and the property owner shall be entered into, prior to issuance of a building permit.

12. With the exception of the K-Mart Seasonal Outdoor Display Area identified on the site plans, all entrance and exit drives, access drives and travel lanes located within the K-Mart PUD, as shown on the Amendment site plans dated 12-08-06, shall remain open and free of any obstructions or barriers which will unreasonably impair or interfere with the free and orderly flow of public ingress, egress and travel.

Ordinance No. 6721

Ordinance No. 6721 was approved on September 2, 2008 to facilitate approximate 1,300 square feet of the northeastern corner of the site to be rezoned to C-5, Highway Service Commercial District and be a part of a Final Plat with the adjacent property. The Final Plat created the lot configuration that is present today. The only condition of approval was to ensure that the rezoning of the 1,300 square foot area was completed.

PROPOSED AMENDMENT

The applicant has proposed to amend the original PUD ordinance and subsequent amending ordinances of the PUD to construct a new commercial building in place of the current structure. The proposed uses and building footprint are similar to the current PUD requirements. The PUD amendment is in the form of a Final Development Plan to be known as the Plaza De Maria Final Development Plan.

The permitted uses proposed in the PUD Amendment are all permitted uses in the C-2, Neighborhood Shopping District (C-2 District regulations are attached). The proposed PUD Amendment is to create a commercial retail center that is similar to the C-2 District.

The PUD was amended in 2007 to include a majority of the C-2 District uses, with the exception of Air conditioning, heating and plumbing sales; Churches, chapels, temples and synagogues; and Convenience stores. City Administration recommended to the applicant that churches, chapels, temples, synagogues and other religious establishments should be a permitted use to avoid conflicts with the Federal Religious Land Use and Institutionalized Persons Act (RLUIPA) of 2000. RLUIPA is intended to protect individuals, houses of worship, and other religious institutions from discrimination in zoning and landmarking laws. Considering the PUD Amendment is approved through a City ordinance, it is the City's preference that the basics of RLUIPA are preserved and these uses are permitted. The property owner can then decide what businesses they choose to lease to.

Similarly, the development is a retail center, which air conditioning, heating and plumbing would commonly fall within that development category. The property owner can determine which businesses they would prefer within their development.

Attachment No. 1

Finally, a stand along convenience store is not proposed on the site plan. A future addition of an out lot for this use would require the Final Development Plan be amended.

Proposed Buildings, Structures, and Phasing

The applicant has proposed to raze the existing building (122,395 square feet), where the former K-Mart store, Genesis Health Club and vacant tenant spaces are located, and construct a new commercial shopping center.

The new building will be 125,872 square feet in area for 4 retail businesses. The Final Development Plans shows Academy Sports will be located in Tenant Space A, which will be 63,300 square feet in area. Tenant Spaces B, C, D do not have defined areas shown on the Final Development Plan. However, Ross Dress For Less and Home Goods are shown as potential tenants in Space C and D, respectfully. No tenant has been stated for Tenant Space B.

The proposed building is to be approximately 44 feet to the top of the tallest cornice. The building is designed to have a corniced topped parapet on the front facades with varying heights. The main exterior material for the front facades of the building will be EFIS, with a split-façade masonry wainscot, capped with a concrete sill. The paint color pallet of the EFIS and masonry will be natural tone colors (whites, grays, tans etc.)

A loading dock is proposed on the west side of the Academy Sports space (Tenant Space A). The proposed landscape plan shows that the loading dock will be screened by a row of 6 foot tall evergreen trees.

The proposed Final Development Plan shows areas devoted to outdoor display of merchandise for the retail businesses. Year-round outdoor display of merchandise next to the building is proposed for all 4 tenants. City Administration proposes a condition of approval that the location of the display merchandise shall kept in an orderly condition and provide a clear path for pedestrians that complies with the American with Disabilities Act and the Manhattan Fire Code.

An approximate 2,500 square foot display area is proposed in the off-street parking lot in front of Academy Sports (Tenant Space A). This area is proposed to be used within 14 off-street parking spaces directly to the south of the store. The applicant's consultant has provided a description of the display area and proposed use limitations: "The area within the parking lot designated on the Site Plan as "Outdoor Display Area" may be used for the display, but not for the actual completion of sale, of seasonal or promotional merchandise at any time between April 1 and October 1 of each calendar year." City Administration is recommending a condition that this area complies with the stated dates of operation and be maintained in an orderly condition that does not cause a conflict with vehicular or pedestrian traffic in the area.

The building will be constructed at once, with no phasing of the development

Proposed Lot Coverage

Use	Square Feet	Percentage
Building	125,872	30.92%
Paved Area (Parking & Driveways)	251,496	61.78%
Landscape/Open Space	29,343	7.20%
Total Impervious	407,070	

PROPOSED SIGN:

The proposed Final Development Plans shows walls signs proposed for the 4 tenant spaces and a new pylon sign to be located near the entrance of the development along the E. Poyntz Avenue Frontage Road. The wall signs are to be internally illuminated, individual channel letters.

Academy Sports (Tenant Space A) will have 3 wall signs consisting of individual channel letters and their logo. The company name will be located above the main entrance and will be approximately 12 feet tall and 48 feet in area (total of 576 square feet). A logo sign is proposed on both sides of front façade. These company logo signs are approximately 8 feet in height and 9 feet in width.

No specific signage is proposed for the Tenant Space B. Proposed signage area is shown on the architectural plans above the main entrance that is to be approximate 11 feet in height, 27.5 feet in width and approximately 303 feet in total sign area.

A wall sign is proposed above the main entrance for Ross Dress For Less (Tenant Space C). This sign will be approximately 12 feet tall and 42 feet wide for a total proposed signage area of 504 square feet. .

A similar individual channel letters wall sign is proposed the Home Goods space (Tenant Space D). This sign area will be approximately 6 feet tall and 40 feet in width.

Although specific signs area shown on the Final Development Plan for the businesses, City Administration would permit any individual channel letters that can be located within these rectangular signage areas.

The applicant has proposed to erect a new pylon sign at the entrance to the shopping center along the E. Poyntz Avenue/U.S. Highway 24 Frontage Road. This sign will be 30 feet in height, with a total of 240 square feet of sign area. The pylon sign will provide signage the development and the 4 tenant spaces.

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The applicant has proposed to allow temporary signs (banner signs, sales aids, etc.), as allowed in the C-2 District Sign Regulations, which is 3 temporary signs of any size per business.

Exempt sign requirements set out in Condition 3 above changed since approval of the last PUD Amendment in 2008. Updated with this amendment are those exempt signs described in Article VI, Section 6-102 (A)(a), (b), (c), (e), (g), (h), (i), (j), (k), (l), and (m) of the Manhattan Zoning Regulations.

PROPOSED LIGHTING: Lighting of the site will consist of 30 foot tall light poles in the parking lot, building lights at entrances and security lights at the rear of the building. As required by the Zoning Regulations, the site lighting is required to be shielded and 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 Kmart Addition PUD is to establish a broad range of retail and commercial service uses in a retail center setting.

The applicant states: “The requested amendment to the PUD is to substitute a new and revised final development plan. The use of the property as a retail center as contemplated and intended by the PUD as originally approved will not be changed. The new final development plan will allow a total redevelopment of the PUD into a modern and efficient retail facility and enhance its longevity as an important retail asset for the community.”

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 applicant states “The existing retail building within the PUD is functionally obsolete. The proposed amended final development plan will allow the existing retail building to be razed and replaced with a new building which more closely meets the current needs and demands of retail tenants.

The amendment is necessary because of the substantial changes that are being proposed to the site, including the new retail building, razing the automotive repair business building and changes to the off-street parking lot and landscaping.

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.

According to the applicant “The proposed amendment will benefit the general public in that it will allow replacement of an outdated and largely vacant retail building with a new and modern complex. The new facility will represent a significant aesthetic improvement to the neighborhood and will also improve the retail shopping opportunities for the general public.

ADDITIONAL MATTERS TO BE CONSIDERED WHEN AMENDING A PLANNED UNIT DEVELOPMENT

1. LANDSCAPING: New landscaping is proposed throughout the site. A mix of deciduous trees, evergreen trees, shrubs, and ornamental grasses will line the outer edge of the off-street parking lot and within new landscape islands within the parking field. Screening in the form of tall and dense evergreen trees is proposed to the west of the truck loading area associated with the Academy Sports space (Tenant Space A)

2. SCREENING: As previously mentioned, the truck loading area for Academy Sports is proposed to be screened by evergreen trees. The landscaping plan shows that these trees are to be 6 feet in height. To ensure proper screening of the loading area along Sarber Lane, a condition of approval is recommend by City Administration that these trees are to be a minimum of 6 feet in height at the time of planting to ensure adequate screening is provided.

A trash compactor is to be located to the east of the truck loading area for Academy Sports. This trash compactor will also be screened by the proposed landscaping.

Trash dumpsters for the other 3 tenant spaces have not been specifically located on the Final Development Plan, but a note is provided that these dumpsters will be screened. City Administration is recommending a condition of approval that these trash dumpsters shall be located at the rear of the building and completely screened by a sight obscuring wood fence or masonry wall that is at least 6 feet in height.

3. DRAINAGE: Stormwater drainage for the site will utilize the existing area inlets and underground pipes within the off-street parking lot to collect and direct stormwater runoff to the existing public storm sewer along Sarber Lane. New roof drains will connect to the area inlets and underground pipes to the north of the building that also connects to the system along Sarber Lane. This public storm sewer directs collected runoff to the “Pretty Ditch” and ultimately to the Kansas River via the gate/pump station at the levee.

Attachment No. 1

Because the existing site is largely impervious surfaces and the proposed redevelopment plans are similar to the existing conditions, the City Engineer and Stormwater Engineer waived the drainage study for the PUD Amendment. Both engineers approve of the stormwater management plans.

4. CIRCULATION: The main access point into the shopping center is from the E. Poyntz Avenue/U.S. Highway 24 Frontage Road. Secondary to the site, including the business delivery routes is from Sarber Lane. It appears that the subject site and the commercial property to the east have a private cross easement between the 2 commercial properties.

Traffic. The proposed retail uses are consistent with the permitted uses of the PUD and the new building will be relatively the same size. Also the access points into the site are not proposed to be changed. For these reasons, the City Engineer has waived the need for a traffic study.

Off-Street Parking. The proposed Final Development Plan shows 463 new and existing off-street parking spaces on the subject site. The applicant has calculated the off-street parking requirements for general retail, which is 1 parking space for each 250 square feet of net floor area. The applicant calculated the net floor area of the proposed building at 107,278 square feet, deducting 15% of the floor area for space not calculated towards parking requirements, such as bathrooms, hallways and storage space. Using this calculation, the new building would require a minimum of 429 off-street parking spaces. There appears to be adequate parking spaces on the subject site.

Additionally, there is the potential for available spaces to the east in the adjacent parking lot on the neighboring retail property. Although these are 2 separate commercial properties in 2 separate zoning districts, both properties appear to function as one retail center.

Pedestrian/Bicycle Access. Pedestrian access to the building will be from the off-street parking lot and a sidewalk proposed on Sarber Lane. The Sarber Lane sidewalk will start at the northwest corner of the parking lot and extend to the intersection Sarber Lane and E. Poyntz/U.S. Highway 24 Frontage Road. A sidewalk connection is available to the west along the Frontage Road. No other sidewalks existing in the area. Connections to future sidewalks will occur as neighboring properties redevelop or road improvements in the area occur.

A bicycle rack is shown on the Final Development Plan in front of the building between Academy Sports (Tenant Space A) and Tenant Space B.

5. OPEN SPACE/LANDSCAPED AND COMMON AREA: There is no common area dedicated in the K-Mart Commercial PUD. Landscaped open space will be located on the outer edges of the off-street parking lot.

6. CHARACTER OF THE NEIGHBORHOOD: The area is characterized by a mix of retail and service commercial uses along East Poyntz Avenue and Sarber Lane. Some commercial areas are characterized as shopping centers and some are individual sites. Industrial manufacturing uses are in the neighborhood, but not along the same access routes as the retail and service commercial uses.

MATTERS TO BE CONSIDERED WHEN REZONING

1. EXISTING USE: K-Mart Commercial PUD: vacant retail center, which was location for the K-Mart department store with garden center, hardware store and auto service center.

2. PHYSICAL AND ENVIRONMENTAL CHARACTERISTICS: The PUD is a developed retail shopping area with off-street parking lots, access drives and parking lot landscape islands and perimeter landscaping.

The subject site is in the Zone X, Protect by Levee Floodplain. This is a low to moderate floodplain that does not have specific floodplain regulations associated with it.

3. SURROUNDING LAND USE AND ZONING:

(1) **NORTH:** Highway service commercial uses and industrial uses, including automotive service businesses and land associated with Manko Window Systems, C-5, Highway Service Commercial District and I-2, Industrial Park District

(2) **SOUTH:** E. Poyntz Avenue/U.S. Highway 24 Frontage Road right-of-way, a 2 lane local commercial street and U.S. Highway 24, a divided 4-lane highway, an Union Pacific Railroad tracks; I-3, Light Industrial Park District

(3) **EAST:** Town East retail shopping center, undeveloped highway service commercial lot: PUD, C-2, Neighborhood Shopping District and C-5 District.

(4) **WEST:** Machine shop, automotive repair businesses, Dillon's Grocery Store and the Manhattan Crossing Shopping Center; C-5 District and PUD.

GENERAL NEIGHBORHOOD CHARACTER: See above under **6, Character of the Neighborhood.**

SUITABILITY OF SITE FOR USES UNDER CURRENT ZONING: The site is suitable for the permitted uses. However, the applicant has stated the existing building is obsolete for the current retail market requirements.

6. COMPATIBILITY OF PROPOSED DISTRICT WITH NEARBY PROPERTIES AND EXTENT TO WHICH IT MAY HAVE DETRIMENTAL AFFECTS: The proposed PUD Amendment and Final Development Plan are similar in use, size and character to the existing PUD before the retail became vacant in recent years. Several of the adjacent properties are also large box retail stores. The proposed PUD Amendment should be compatible to nearby properties.

7. CONFORMANCE WITH COMPREHENSIVE PLAN: The rezoning site is in the Southeast Planning Area of the Future Land Use Map of the Manhattan Area 2035 Comprehensive Plan. This Future Land Use Maps identifies the K-Mart Shopping Center as Community Commercial (CC), which is a mix of retail and commercial services in a unified setting that serves the entire community. The proposed Amendment to the PUD will continue these types of activities and conforms to the Comprehensive Plan.

The proposed Amendment is in conformance with the Comprehensive Plan.

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

June 17, 1969	City Commission approves first reading of an ordinance annexing and rezoning the site to E, Light Industrial District.
July 1, 1969	City Commission approves second reading of an ordinance to annex and rezone the site to E, Light Industrial District.
January 13, 1969	Manhattan Urban Area Planning Board (MUAPB) conducts Public Hearing and recommends approval of new Zoning Map and Zoning Ordinance.
April 1, 1969	City Commission considers first reading of Zoning Map and Zoning Ordinance.
July 15, 1969	City Commission approves second reading of Zoning map and Zoning Ordinance.
May 14, 1973	City Planning Board conducts Public Hearing to consider rezoning to Planned Development District and recommends approval.
July 10, 1973	City Commission approves first reading to rezone to PDD.

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August 7, 1973	City Commission approves second reading to rezone to PDD.
April 11, 1985	MUAPB approves amendment to Final Development Plan to expand Food 4 Less.
October 15, 1987	MUAPB approves amendment to the Final Development Plan to expand K-Mart Garden Shop.
February 5, 1990	MUAPB conducts Public Hearing and recommends approval to rezone site to a new PUD in order to expand K-Mart and add the Auto Center Building.
February 20, 1990	City Commission approves first reading to rezone to PUD (Ord. 4635).
March 20, 1990	City Commission approves second reading of Ord. 4635.
July 2, 1990	MUAPB approves Final Plat of K-MART Addition, Lot 1.
July 17, 1990	City Commission accepts rights-of-way and easements for Lot 1.
March 3, 1997	MUAPB conducts Public Hearing to amend Final Development Plan and recommends approval to modify signage on the Auto Center.
April 1, 1997	City Commission approves Ordinance No. 5021 amending signs for auto center.
August 4, 2003	MUAPB conducts Public Hearing and recommends approval of proposed amendments for a pole sign and modification of the landscape plan.
August 19, 2003	City Commission considers first reading of an amendment to allow a pole sign and modification of the landscape plan.
September 2, 2003	City Commission approves Ordinance No. 6359 amending the PUD to allow a pole sign and modification of the landscape plan.
October 2, 2006	MUAPB tables public hearing on proposed amendment to include C-2 District uses and Farm and Ranch Supply stores with outdoor storage, to Oct. 16, 2006.

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- October 16, 2006 MUAPB denies proposed Amendment of the K-Mart Planned Unit Development, based on questions related to off-street parking, circulation and the size of the outdoor storage areas.
- October 18, 2006 Owner withdraws amendment application.
- November 2, 2006 New revised amendment application submitted.
- December 18, 2006 MUAPB conducts public hearing on revised amendment proposal to add C-2 District uses and define seasonal display areas, modify the façade and wall signage, reduce parking and modify the landscape plan. MUAPB recommends approval with 12 conditions.
- December 26, 2006 City Clerk's Office receives protest petition from Chris Curtin, which is determined to be valid.
- January 9, 2007 City Commission considers first reading of an ordinance amending the K-Mart PUD as proposed. Protest petition withdrawn by Chris Curtin. City Commission, on a vote of 5-0, overrides the Planning Board's recommendation and approves first reading of an ordinance amending the K-Mart PUD as proposed, with 11 conditions in Staff Report and with the revised 12th condition recommended by City Administration.
- January 23, 2007 City Commission approves Ordinance No. 6603 amending the K-Mart PUD as proposed, with 11 conditions in Staff Report and revised 12th condition recommended by City Administration.
- August 4, 2008 MUAPB conducts public hearing on PUD amendment and rezoning of 1,302 square foot tract of land from K-Mart PUD to C-5 and recommends approval. MUAPB approves Final Plat of Lots 1, 2, and 3, KMART Addition, Unit 2, subject to approval of amendment and rezoning.
- August 19, 2008 City Commission approves first reading of an ordinance amending the K-Mart PUD and rezoning of a 1,302 square foot portion of the PUD from PUD to C-5 District.
- September 2, 2008 City Commission approves Ordinance Nos. 6721 and 6722 amending the K-Mart PUD and rezoning a 1,302 square foot portion of the PUD to C-5 District; and, accepted the easements and rights of way as shown on the Final Plat of K-Mart Addition, Unit 2.

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9. CONSISTENCY WITH INTENT AND PURPOSE OF THE ZONING ORDINANCE: The intent and purpose of the Zoning Regulations is to protect the public health, safety, and general welfare; regulate the use of land and buildings within zoning districts to assure compatibility; and to protect property values.

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

Subject to the conditions of approval, the proposed amendment is consistent with the Zoning Regulations.

10. RELATIVE GAIN TO THE PUBLIC HEALTH, SAFETY AND WELFARE THAT DENIAL OF THE REQUEST WOULD ACCOMPLISH, COMPARED WITH THE HARDSHIP IMPOSED UPON THE APPLICANT: There appears to be no relative gain to the public, which denial would accomplish. No adverse impacts to the public are expected. There may be a hardship to the applicant if the amendment is denied.

11. ADEQUACY OF PUBLIC FACILITIES AND SERVICES: Adequate public utilities and facilities are available to serve the PUD.

12. OTHER APPLICABLE FACTORS: None.

13. STAFF COMMENTS: City Administration recommends approval of the proposed Amendment of Ordinance Nos. 4635, 5027, 6359, 6603 and 6721 and the approved Final Development Plan of the K-Mart Commercial Planned Unit Development, to be known as the Plaza De Maria Final Development Plan. All previous PUD ordinances and conditions of approval shall be superseded by the following conditions, as recommended by City Administration:

1. Permitted Uses shall be those permitted in the C-2, Neighborhood Shopping District.
2. The locations of the display merchandise areas in front of the building shall kept in an orderly condition and provide a clear path for pedestrians that comply with the American with Disabilities Act and the Manhattan Fire Code.
3. The outdoor merchandise display area in the off-street parking lot, as shown on the Final Development Plan shall used for the display of seasonal or promotional merchandise at any time between April 1st and October 1st of each calendar year.

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This area shall be maintained in an orderly condition and not interfere with vehicular or pedestrian traffic.

4. Landscaping and irrigation shall be provided pursuant to a Landscaping Performance Agreement between the City and the owner, which shall be entered into prior to issuance of a building permit.
5. The row of evergreen trees to the west of the truck loading area, as shown on the Landscape Plan shall be a minimum of 6 feet in height at the time of planting.
6. All landscaping and irrigation shall be maintained in good condition.
7. Permanent signs shall be provided as proposed in the application documents.
8. The use of temporary signage shall be allowed per the Sign Regulations for the C-2, Neighborhood Shopping District.
9. Exempt signage shall be allowed for, as described in Article VI, Section 6-102 (A)(a), (b), (c), (e), (g), (h), (i), (j), (k), (l), and (m), of the Manhattan Zoning Regulations.

ALTERNATIVES:

1. Recommend approval of the proposed amendment of Ordinance Nos. 4635, 5027, 6359, 6603 and 6721 and the approved Final Development Plan of the K-Mart Commercial Planned Unit Development, to be known as the Plaza De Maria Final Development Plan stating the basis for such recommendation.
2. Recommend denial of the proposed amendment of Ordinance Nos. 4635, 5027, 6359, 6603 and 6721 and the approved Final Development Plan of the K-Mart Commercial Planned Unit Development, to be known as the Plaza De Maria Final Development Plan, 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 amendment of Ordinance Nos. 4635, 5027, 6359, 6603 and 6721 and the approved Final Development Plan of the K-Mart Commercial Planned Unit Development, to be known as the Plaza De Maria Final Development Plan, based on the findings in the Staff Report, subject to the 9 conditions of approval recommended by City Administration.

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

DATE: August 30, 2016



INTER-OFFICE MEMORANDUM

DATE: August 30, 2016

TO: Manhattan Urban Area Planning Board

MEETING DATE: September 8, 2016

FROM: Amelia Lewis, Planning Intern
Eric Cattell, AICP, Assistant Director for Planning

RE: Amend Article IV District Regulations, Part 3 Industrial Districts, Section 4-307, CTPO, Corporate Technology Park Overlay District, to create the MBPO, Manhattan Business Park Overlay District

BACKGROUND

The proposed amendment replaces the existing CTPO, Corporate Technology Park Overlay District with the new Manhattan Business Park Overlay District (MBPO). The CTPO District currently covers the Corporate Technology Park, consisting of approximately 185 acres of industrial properties generally located on the west side of the Manhattan Regional Airport and east of Wildcat Creek Road (*see map*).

The Corporate Technology Park was annexed in 1999 and zoned a combination of I-3, Light Industrial District and I-5, Business Park District, and also included the AO, Airport Overlay District due to its proximity to the Airport. In 2005 the existing Corporate Technology Park Overlay District was added to the entire park, to add a range of permitted service uses to this industrial area (i.e. banks, offices, convenience stores, health clubs, and restaurants) and to add flexibility in the minimum floor area required in the I-5 District.

Most of the existing Technology Park is also subject to private covenants that were developed by a consultant working with the City and the Manhattan Area Chamber of Commerce as part of the original Corporate Technology Park Master Plan process in

1998. The extensive covenants (approximately 40 pages) were filed by the City in 2000 and have been amended twice, and address as number of topics including, permitted and prohibited uses, design guidelines, landscaping, maintenance, the architectural review process, and administration of the covenants.

Change in Market Focus. Through two rounds of discussions (April and June 2016) with the Manhattan Area Chamber of Commerce, and the business and property owners within the existing Technology Park, the proposed amendment to the CTPO District was developed to facilitate the Chamber's efforts to rebrand and market the area as a general business/industrial park, no longer focused exclusively on technology industries as it was originally intended. Since the original development of the Corporate Technology Park in 1999, the regional market focus has shifted away from primarily technology based industries, particularly with construction of NBAF and the other research based activities associated with Kansas State University that will likely expand the need to accommodate a wider range of activities. The new focus is to provide a broader range of permitted land uses and support services and to create a simpler overall development process than the current combination of underlying zoning and overlay districts, and private covenants allow, which have been found to be confusing to prospective businesses and a challenge to administer. Concurrent with the proposed amendment of the CTPO District, a process to remove the covenants will also be implemented by the City Commission.

The existing CTPO District and proposed MBPO District are attached.

AMENDMENTS TO THE TEXT OF THE ZONING REGULATIONS

Overlay Districts can be used to add additional land uses and/or requirements; and/or remove or prohibit uses and/or reduce requirements from the underlying zones. In this case, the proposed amendment is to replace the existing Corporate Technology Park Overlay District with a simplified overlay district that accomplishes the following: 1) adds the same permitted land uses and support services found in the CTPO to both underlying zones; 2) incorporates the prohibited uses from the private covenants; 3) retains the CTPO's Use Limitation that provides flexibility regarding minimum floor area in the I-5 District; 4) adds two additional Use Limitations regarding limiting drive-in establishments, and prohibiting pylon signs and off-site advertising signs as per the private covenants; and 5) renames the overlay district to match the Chamber's rebranding efforts.

The proposed MBPO, Manhattan Business Park Overlay District is designed to provide a broader range of permitted land uses and support services than the underlying zoning districts accommodate on their own and to increase flexibility in tenant size in the I-5 District. The MBPO is used in conjunction with the underlying zoning district classifications (I-3, Light Industrial District and I-5, Business Park District), as well as the AO, Airport Overlay District, within the Manhattan Business Park.

Attachment No. 2

The existing private covenants currently apply to 25 properties within the Corporate Technology Park Overlay District, (i.e. all of the park except for three lots on the northernmost cul-de-sac). In order for the covenants to be removed, owners of fifty five percent (55%) of the property must be in favor. The City of Manhattan currently owns approximately 131 acres, or 74.5 percent of the land. The other property owners subject to the covenants, as well as the Manhattan Area Chamber of Commerce staff, have expressed their support of the removal of the covenants and have been working with City Administration to develop the proposed amendment.

The current CTPO partially divides its permitted uses according to the underlying zoning classification (I-3 or I-5). The proposed overlay would apply equally to all properties, with the same permitted and prohibited uses for either underlying zoning designation.

Permitted Uses within the MBPO shall be in addition to the permitted uses in the underlying zoning district and also include: art and handicraft fabrication or processing, banks and financial institutions (including drive-in type), breweries or related vinification facilities, business and professional offices, convenience stores, corporate headquarters, group day care centers, health and fitness clubs, instrument fabrication or processing, mail order houses, optical goods fabrication or processing, restaurants, stationary and paper products, and post secondary educational facilities.

Prohibited Uses are prohibited regardless of if they are permitted in the underlying zoning district. Those uses include: above-ground bulk storage of chemicals, petroleum products and other hazardous materials, automobile rental service, car and truck washes, fuel storage and wholesale distribution, hospitals, hotels, motor vehicle and tire repair, radio and television broadcasting stations, recycling center, retail sales or services except those permitted in the previous section, and salvage storage yards.

Use Limitations include: a 5,000 square foot minimum building square footage for all properties; no drive in establishments except those as noted in the Permitted Uses section; and pylon signs and off-premise advertising signs are prohibited, otherwise the signage shall be allowed as per the underlying zoning district.

WHETHER SUCH CHANGE IS CONSISTENT WITH THE INTENT AND PURPOSE OF THE ZONING REGULATIONS

The intent of the Manhattan Zoning Regulations is to protect the public health, safety and general welfare and to protect property values and to ensure compatibility between land uses within a district. The proposed MBPO District upholds this intent and purpose by regulating permitted and prohibited uses in a customized manner appropriate to the unique circumstances associated with this particular business park.

Attachment No. 2

The private covenants were intended to provide additional regulations for the Corporate Technology Park and were written in concert with the original intent to market it as a technology park. The conditions of the covenants that were included to protect public health, safety and the general welfare exist in the zoning regulations or have been added to the proposed MBPO District to ensure that future development aligns with existing and future land uses.

AREAS WHICH ARE MOST LIKELY TO BE DIRECTLY AFFECTED BY SUCH CHANGE AND IN WHAT WAY THEY WILL BE AFFECTED

The proposed MBPO District will replace the existing CTPO District and will apply the revised provisions to all the lots located within the industrial park located between the Manhattan Regional Airport and Wildcat Creek Road.

There are five residential properties located along wildcat creek road to the south of the district, two of which are owned by the city, and one to the north which is also owned by the City. The effects on these properties should be minimal as the proposed MBPO District restricts the uses the same light industrial and businesses park uses that are currently allowed, incorporates the prohibited uses from the covenants, and only allows for monument signage. Exterior lighting must be shaded so that no direct light is cast upon any property located in a residential district and so that no glare is visible to any traffic on any public street.

WHETHER THE PROPOSED AMENDMENT IS MADE NECESSARY BECAUSE OF CHANGED OR CHANGING CONDITIONS IN THE AREAS AND ZONING DISTRICTS AFFECTED, OR IN THE CITY PLANNING AREA, GENERALLY, AND IF SO, THE NATURE OF SUCH CHANGED OR CHANGING CONDITIONS

The proposed amendment is made necessary due to changing market conditions for industrial land in the region and the desire by the Chamber of Commerce, the land owners and the City to rebrand and change the focus of the business park to meet the market demand. The district was originally intended as a technology park. Today it serves a number of businesses with various functions, several of which are not solely technology related.

The proposed MBPO incorporates the prohibited uses and some of the use limitations from the covenants to maintain compatibility with the original desire to scale back from the full range of permitted uses in the underlying I-3 and I-5 Districts. Rebranding the area as a light industrial business park, with more development friendly regulations is intended to attract additional businesses and accommodate the changing market in the region.

WHETHER SUCH CHANGE IS CONSISTENT WITH THE INTENT AND PURPOSE OF THE POLICY AND GOALS AS OUTLINED IN THE ADOPTED COMPREHENSIVE PLAN OF THE CITY

The Zoning Regulations implement the Comprehensive Plan, its goals, objectives, and policies. The Future Land Use Map of the Comprehensive Plan identifies the Corporate Technology Park as an “office-research” designation within the employment category, which is intended to provide concentrated areas of high quality employment facilities, such as corporate office headquarters, research and development facilities, educational facilities, or supporting services in a planned setting. The proposed MBPO District maintains similar provisions as the existing overlay and incorporates prohibited uses and use limitations from the covenants to ensure quality development. The proposed amendment is generally consistent with the policies and goals in the comprehensive plan.

ALTERNATIVES

It appears the MUAPB has the following alternatives concerning the issue at hand. The Board may:

1. Recommend approval of the proposed amendment to the City Commission, based on the findings in the Staff Memorandum.
2. Recommend denial of the proposed amendment to the City Commission, based on specifically stated reasons.
3. Modify the proposed amendment and forward the modifications, along with an explanation, to the City Commission.
4. Table the public hearing to a specific date, and provide further direction to City Administration.

RECOMMENDATION

City Administration recommends approval of the proposed amendment to the Manhattan Zoning Regulations to amend Article IV District Regulations, Part 3 Industrial Districts, Section 4-307, by replacing the CTPO, Corporate Technology Park Overlay District with the proposed MBPO, Manhattan Business Park Overlay District.

POSSIBLE MOTION

The Manhattan Urban Area Planning Board recommends approval of the proposed amendment of the Manhattan Zoning Regulations Article IV District Regulations, Part 3 Industrial Districts, Section 4-307, to replace the CTPO, Corporate Technology Park Overlay District with the proposed MBPO, Manhattan Business Park Overlay District, based on the findings in the Staff Memorandum.

AL/EC
16148}MUAPB}AMEND}ART-IV-CTPO

Attachments:

1. Existing CTPO, Corporate Technology Park Overlay District
2. Draft MBPOD, Manhattan Business Park Overlay District
3. Map showing existing extent of the Corporate Technology Park Overlay District