



***MINUTES
CITY COMMISSION MEETING
TUESDAY, OCTOBER 18, 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, Legal Counsel Bill Frost, City Clerk Gary S. Fees, 7 staff, and approximately 16 interested citizens.

PLEDGE OF ALLEGIANCE

Mayor Reddi led the Commission in the Pledge of Allegiance.

PROCLAMATIONS

Mayor Reddi proclaimed October 29, 2016, "***C. Clyde Run***" ***Fun Run/Walk and Midge's Mile Family Fun Walk***. C. Clyde Jones was present to receive the proclamation.

Mayor Reddi proclaimed October 31-November 4, 2016, ***Put Students First Week***. Leah Fliter, USD 383 School Board member, was present to receive the proclamation.

Mayor Reddi proclaimed November 11, 2016, ***Veterans Day***. Dave Eckart, President, Flint Hills Veterans Coalition, was present to receive the proclamation.

COMMISSIONER COMMENTS

Commissioner McCulloh thanked the Manhattan Fire Department on their response to the apartment structure fire on College Avenue and Claflin Road on Monday, October 17, 2016. She also congratulated the Fire Department staff on their Open House held on Sunday, October 16, 2016, at the Headquarters Fire Station.

COMMISSIONER COMMENTS

Commissioner Dodson voiced his appreciation on the performance of the Fire Department personnel to keep the fire under control and to all the other agencies that assisted with the fire and those that helped individuals that were displaced. He informed the community that Major General Joe Martin is the new commanding general at Fort Riley and will be deploying quickly. He wished Major General Martin and his troops well on their nine-month deployment to Iraq.

Commissioner Morse stated that she attended the Ribbon Cutting Ceremony for Irwin Army Community Hospital on October 12, 2016. She provided information on the new facility and stated that the new Hospital offers many services for the military personnel and their families and will be a wonderful place to work.

Mayor Reddi thanked the community for their patience during the fire and expressed her appreciation to the Fire Department, Riley County Police Department, Riley County Emergency Management Services, Red Cross, and other agencies that provided assistance. She provided information on the upcoming election deadlines and encouraged those interested to go to the Riley County Election website for additional information. She discussed the recent grant received to address mental health needs with Riley County Police Department and encouraged citizens to provide feedback regarding the trails with the Parks and Recreation Department on the City's website.

CONSENT AGENDA

(* denotes those items discussed)

MINUTES

The Commission approved the minutes of the Special City Commission Meeting held Tuesday, October 11, 2016.

CLAIMS REGISTER NO. 2832

The Commission approved Claims Register No. 2832 authorizing and approving the payment of claims from October 5, 2016, to October 11, 2016, in the amount of \$2,389,299.20.

LICENSE

The Commission approved annual Cereal Malt Beverages On-Premises Licenses for Happy Valley Chinese Restaurant, 2037 Tuttle Creek Boulevard, Suite A, and Wingstop, 1126 Moro Street.

CONSENT AGENDA (CONTINUED)

ORDINANCE NO. 7251 – AMEND K-MART COMMERCIAL PUD (NOW PLAZA DE MARIA PUD)

The Commission approved Ordinance No. 7251 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 Final Development Plan of Plaza De Maria Commercial Planned Unit Development, 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.

FINAL PLAT – PLAZA DE MARIA

The Commission accepted the easements and rights-of-way, as shown on the Final Plat of Plaza De Maria, generally located at the northeast corner of the East Poyntz Avenue Frontage Road and Sarber Lane, based on conformance with the Manhattan Urban Area Subdivision Regulations.

ORDINANCE NO. 7252 – AMEND ZONING REGULATIONS – CTPO, CORPORATE TECHNOLOGY PARK OVERLAY DISTRICT

The Commission approved Ordinance No. 7252 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.

TERMINATE – RESTRICTIVE COVENANTS – MANHATTAN CORPORATE TECHNOLOGY PARK

The Commission approved the termination of the Covenants, Conditions, and Restrictions on the Manhattan Corporate Technology Park, and authorized the Mayor to execute, and the City Clerk to file with the Register of Deeds, the Consent to Termination.

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ORDINANCE NO. 7253 – LEVY 2017 SERVICE FEES – AGGIEVILLE BUSINESS IMPROVEMENT DISTRICT

Commissioner Butler provided clarification on the changes made in the enforcement section of the ordinance. He stated that the enforcement provision in the second version of the ordinance is much more reasonable than in the initial ordinance.

The Commission approved Ordinance Nos. 7253 and 7254 levying Business Improvement Service Fees for 2017 on businesses located within the Aggieville and Downtown Business Improvement Districts.

CONSENT AGENDA (CONTINUED)

* **ORDINANCE NO. 7254 – LEVY 2017 SERVICE FEES – DOWNTOWN BUSINESS IMPROVEMENT DISTRICT**

Commissioner Butler provided clarification on the changes made in the enforcement section of the ordinance. He stated that the enforcement provision in the second version of the ordinance is much more reasonable than in the initial ordinance.

ORDINANCE NO. 7255 – ADOPT – 2016 STANDARD TRAFFIC ORDINANCE

The Commission approved Ordinance No. 7255 incorporating by reference the Standard Traffic Ordinance for Kansas Cities, Edition of 2016, with amendments as set forth in the ordinance.

ORDINANCE NO. 7256 – AMEND SCHOOL ZONE – LEE ELEMENTARY SCHOOL

The Commission approved Ordinance No. 7256 amending Chapter 31 of the Code of Ordinances to expand the “School Zone” location for the Lee School pedestrian crossing and relocate the existing “School Zone” flashing signal.

RESOLUTION NO. 101816-A – SET BOND SALE DATE – GENERAL OBLIGATION BOND SERIES 2016-B

The Commission approved Resolution No. 101816-A setting November 15, 2016, as the date to sell \$2,065,000.00 in general obligation bonds.

FIRST READING – ISSUE – GENERAL OBLIGATION BOND SERIES 2016-B

The Commission approved first reading of an ordinance issuing \$2,065,000.00 in general obligation bonds.

RESOLUTION NO. 101816-B – INVESTMENT POLICY

The Commission approved Resolution No. 101816-B re-affirming expanded investment powers for the City of Manhattan based on final approval from the Pooled Money Investment Board.

* **REQUEST FOR QUALIFICATIONS – PROFESSIONAL SERVICES - WARNER MEMORIAL PARK MASTER PLAN**

This Item was moved to the end of the General Agenda at the request of Commissioner McCulloh.

CONSENT AGENDA (CONTINUED)

ADDENDUM – AIRPORT TERMINAL EXPANSION, PHASE TWO 9 (AIP 46, CIP #AP040P)

The Commission authorized the Mayor and City Clerk to execute the Second Addendum to the Contract with The Weitz Company, LLC, of Lenexa, Kansas, for Phase Two of the Passenger Terminal (AIP 46, CIP #AP040P) at the Manhattan Regional Airport.

CHANGE ORDER NO. 28 – AIRPORT TERMINAL EXPANSION, PHASE TWO (AIP 46, CIP #AP040P)

The Commission authorized the Mayor and City Clerk to execute Change Order No. 28 resulting in a net increase in the amount of \$32,929.00 to the construction contract with The Weitz Company, LLC, of Lenexa, Kansas, for Phase Two of the Passenger Terminal (AIP 46, CIP #AP040P) at the Manhattan Regional Airport.

CONTRACT AMENDMENT NO. 1 – REMODEL FORMER FIXED BASE OPERATOR BUILDING – AIRPORT ADMINISTRATION OFFICE

The Commission authorized the Mayor and City Clerk to execute Contract Amendment No. 1 with Ben Moore Studio, LLC, of Manhattan, Kansas, and to advertise and receive construction bid proposals to remodel the former Fixed Base Operator building for the relocation of the Airport Administrative Office.

AGREEMENT – PROFESSIONAL SERVICES – LEVEE OUTFALL INSPECTION

The Commission authorized the Mayor and City Clerk to execute an agreement in an amount not to exceed \$21,900.00, with AMEC Foster Wheeler Environment and Infrastructure, Inc., of Topeka, Kansas, for completion of the Levee Outfall Inspection.

AGREEMENT – HOLIDAY LIGHTING – THE FESTIVAL OF LIGHTS

The Commission approved and authorized the Mayor and City Clerk to execute an agreement with Whoville, Inc., for the holiday lighting and special events regarding “The Festival of Lights” at Blue Earth Plaza.

* APPOINTMENT – AIRPORT A/E CONSULTANT

The Commission appointed Commissioners Morse and Dodson to serve on the Selection Committee for the Airport Architectural/Engineering Consultant.

CONSENT AGENDA (CONTINUED)

BOARD APPOINTMENT – ARTS AND HUMANITIES ADVISORY BOARD

The Commission approved the appointment by Mayor Reddi of Rebecca Hackemann-Bahlmann, 111 Willard Hall, to fill the unexpired term of Shelly Richardson. Ms. Hackemann-Bahlmann term begins immediately and will expire March 31, 2018.

Mayor Reddi opened the public comments.

Sam Devinki, Managing Member, Plaza De Maria, provided additional information on the project (re: Amend K-Mart PUD and Plaza De Maria Final Plat) and stated that the development is named in honor of his mother.

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

After discussion and comments from the Commission, Commissioner Morse moved to approve the consent agenda and move Item M, REQUEST FOR QUALIFICATIONS – PROFESSIONAL SERVICES - WARNER MEMORIAL PARK MASTER PLAN, to the end of the General Agenda. Commissioner McCulloh seconded the motion. On a roll call vote, motion carried 5-0.

GENERAL AGENDA

FIRST READING – REZONE - HERITAGE SQUARE NORTH (POTTAWATOMIE COUNTY CH, HIGHWAY COMMERCIAL DISTRICT, TO C-5, HIGHWAY SERVICE COMMERCIAL DISTRICT)

Eric Cattell, Assistant Director for Planning, presented an overview of the item. He highlighted the subject site, comprehensive plan map, and recommendation of the item by the Manhattan Urban Area Planning Board. He then responded to questions from the Commission regarding flood elevation levels, adjacent property to Heritage Square North and discussed the U.S. Highway 24 Corridor Management Plan.

Brian Johnson, City Engineer, provided additional information on the item and highlighted work already completed by the Kansas Department of Transportation.

Mayor Reddi opened the public comments.

GENERAL AGENDA (CONTINUED)

FIRST READING – REZONE - HERITAGE SQUARE NORTH (POTTAWATOMIE COUNTY CH, HIGHWAY COMMERCIAL DISTRICT, TO C-5, HIGHWAY SERVICE COMMERCIAL DISTRICT) (CONTINUED)

Rich Seidler, Commercial Real Estate Services, representing the owner of the property, provided additional information regarding drainage and requirements. He asked the Commission to accept the recommendations of the engineers, City staff, and the recommendation of the Manhattan Urban Area Planning Board.

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

After discussion, Commissioner Dodson moved to approve first reading of an ordinance rezoning Heritage Square North, a 32.5 acre tract generally located north of the intersection of U.S. Highway 24 and South Port Drive, from Pottawatomie County CH, Highway Commercial District, to C-5, Highway Service Commercial 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.

DEVELOPMENT AGREEMENT - OPEN LAND, LLC (GENESIS HEALTH AND FITNESS CLUB)

Jason Hilgers, Deputy City Manager, presented an overview of the item. He highlighted the site plan, the landscape plan, and the location of the City-owned pump station. He informed the Commission that the City would not allow the development to take place over the top of a waterline at the current location in the event future maintenance is needed. He stated that the relocation costs are 100 percent to the developer and the City would only participate if the City makes the determination to oversize the existing water line. He then responded to questions from the Commission regarding the process and future items to be considered by the Manhattan Urban Area Planning Board and the Commission.

Brian Johnson, City Engineer, provided additional information on the relocation of the water line and the opportunity to upsize the line.

Ron Fehr, City Manager, provided clarification regarding the site and development agreement.

Jason Hilgers, Deputy City Manager, responded to questions from the Commission. He provided additional information on the process and noted the potential opportunity to work with a mutual contractor to gain efficiencies for the project on the site.

Mayor Reddi opened the public comments.

GENERAL AGENDA (*CONTINUED*)

DEVELOPMENT AGREEMENT - OPEN LAND, LLC (GENESIS HEALTH AND FITNESS CLUB) (*CONTINUED*)

Greg Ferris, representing Genesis Health Club, informed the Commission that the request is to approve the development agreement and a public hearing regarding the rezoning will be conducted at the Manhattan Urban Area Planning Board meeting on November 7, 2016. He stated that there is a potential opportunity to upsize the water line at the same time the line is being relocated, resulting in a savings to the City of Manhattan. He provided additional information about the project and stated that they also need to relocate an electrical line and are working with Westar Energy. He reiterated that the proposed development agreement will shorten the timeframe by a couple of months. He then responded to questions from the Commission regarding the neighborhood meeting that was held and provided clarification on the proposed pool components for the facility.

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

After further discussion and comments from the Commission, Commissioner Morse moved to approve and authorize the Mayor and City Clerk to execute a development agreement to relocate a waterline and prepare a site off Allison Road for a future Genesis Health and Fitness Club (Open Land, LLC). Commissioner McCulloh seconded the motion. On a roll call vote, motion carried 5-0.

ITEM REMOVED FROM CONSENT AGENDA

REQUEST FOR QUALIFICATIONS – PROFESSIONAL SERVICES - WARNER MEMORIAL PARK MASTER PLAN

Eddie Eastes, Director of Parks and Recreation, provided background information on the request to advertise a Request for Qualifications for professional landscape architects and park planning consultants to assist the City with development of a master plan for Warner Park. He responded to questions from the Commission and stated that the Parks and Recreation Department has the capability to do this project with Wyatt Thompson, Senior Park Planner, but time is the issue and the current workload is very heavy right now. He informed the Commission that an outside consulting firm would benefit the process.

Commissioner McCulloh stated that her concern was the expense associated with hiring a consultant to do a master plan for Warner Park. She asked if there is someone at Kansas State University that can provide a plan for \$10,000.00 versus spending \$60,000.00. She stated the disc golf people have been waiting a long time to expand the existing disc golf course and there is a need to also address parking and restrooms.

ITEM REMOVED FROM CONSENT AGENDA (CONTINUED)

REQUEST FOR QUALIFICATIONS – PROFESSIONAL SERVICES - WARNER MEMORIAL PARK MASTER PLAN (CONTINUED)

Commissioner Dodson provided additional information on the item. He stated that restrooms and a parking lot can be built without doing a master plan. He said that maybe the master plan term is too elevated for this kind of effort, unless there is some kind of clamor from people around Warner Park that want something different.

Commissioner Butler asked if there are any constraints or legal reasons in how Warner Park is used.

Bill Frost, Legal Counsel, informed the Commission that the Warner family expressed intent verbally that this Park remains open space. He stated that he didn't recall anything legally in the documents that dedicated it to the City and said that the deed is just a deed to the City. He stated that he recalled Bill Warner talked about the intent was open space, but didn't think there were any legal restrictions.

Commissioner McCulloh stated there may not be a legal restriction, but thought that there is an ethical restriction.

Commissioner Butler stated that that he did not have any problem following the intent and if that is the case, then stated that it does not appear to be a need for a master plan. He said that he would rather see \$60,000.00 pay for restrooms and disc golf course improvements versus going to a consultant. He stated that if City staff can't do this and need someone to study this, then see if the focus can be narrowed and get someone to provide the City with plans at a lower price.

Commissioner McCulloh stated that she understood the concerns with more traffic and parking from the neighborhood. She stated that the disc golf people are willing to put skin in the game and help raise money for this.

Commissioner Morse stated that she was supportive of disc golf and restrooms and understood the openness of the Park. She expressed reservations about using economic development funds to pay for the master plan.

Mayor Reddi voiced support for community engagement and to increase the disc golf course and parking. She stated that she agreed with Commissioner McCulloh to utilize someone at Kansas State University or an intern at the University. She said that major changes are not expected, but updates to the plan are needed. She stated that Emporia has four disc golf courses and hosted a national tournament. She said that regular style of golf is actually declining, while disc golf is increasing and the maintenance for disc golf courses is not as intense as regular golf.

ITEM REMOVED FROM CONSENT AGENDA (CONTINUED)

REQUEST FOR QUALIFICATIONS – PROFESSIONAL SERVICES - WARNER MEMORIAL PARK MASTER PLAN (CONTINUED)

Eddie Eastes, Director of Parks and Recreation, informed the Commission that City staff can do the planning efforts in-house, but stated this is a timing issue and not a capability issue. He informed the Commission that the current parking for disc golf is inadequate and the parking lot and the restrooms are the most concerning. He stated the planning aspects need to include a public input process to consider the impacts to the Park.

Commissioner Butler asked if the plan can be updated and a maximum fee of \$10,000.00 to \$15,000.00 established to see if it can be done and narrow the scope.

After comments and questions from the Commission, Eddie Eastes, Director of Parks and Recreation, responded to additional questions. He explained the differences between the number of participants playing regular golf and disc golf. He reiterated that if this project is done in-house, the timing would need to be different.

Wyatt Thompson, Senior Park Planner, informed the Commission that it is possible to reach out to local experts at Kansas State University and to interns. He provided additional information on the consultant selection process and stated that it may be difficult to find a consultant with \$10,000.00 to \$15,000.00, but can develop other options and timelines if that direction is given. He then responded to questions from the Commission regarding the process, engagement piece and concepts used similar to the process used for the Park at Lee Mill Heights.

Mayor Reddi opened the public comments.

Hearing no comments, Mayor Reddi closed the public comments.

Ron Fehr, City Manager, provided additional information on the item. He stated that City staff can rework this item, develop a calendar and timeline, and provide the Commission with options going forward and get feedback. He also discussed the source of funds proposed to be used for Warner Park and the strategy to use surplus Economic Development Funds.

Eddie Eastes, Director of Parks and Recreation, responded to additional questions from the Commission regarding the status and focus of the Strategic Facility Improvements Plan. He informed the Commission that a new Request for Qualifications can be prepared and brought back to the Commission.

ITEM REMOVED FROM CONSENT AGENDA (CONTINUED)

**REQUEST FOR QUALIFICATIONS – PROFESSIONAL SERVICES - WARNER
MEMORIAL PARK MASTER PLAN (CONTINUED)**

After additional discussion and comments from the Commission, Commissioner Butler moved to table the item and have City staff bring back a Request for Qualifications proposal that meets the requirements of the discussion. Commissioner McCulloh seconded the motion. On roll call vote, motion carried 5-0.

ADJOURNMENT

At 8:33 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.

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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.

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.

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

STAFF REPORT

ON AN APPLICATION TO REZONE PROPERTY

FROM: Pottawatomie County CH, Highway Commercial District

TO: C-5, Highway Service Commercial District

APPLICANT/OWNER: MCM Properties, LLC – Rob Eichman

ADDRESS: 701 S. 4th Street, Manhattan, Kansas

LEGAL DESCRIPTION: A tract of land located in Section 9, Township 10 South, Range 9 East (see application materials for complete legal description)

LOCATION: Generally located to the north of the intersection of U.S. Highway 24 and South Port Drive.

AREA: 1,416,035 square feet (32.51 acres)

DATE OF NEIGHBORHOOD MEETING: July 12, 2016

DATE OF PUBLIC NOTICE PUBLICATION: September 12, 2016

DATE OF PUBLIC HEARING: PLANNING BOARD: October 3, 2016

CITY COMMISSION: October 18, 2016

Note: Ordinance No. 6606 annexed the land commonly referred to as Heritage Square North (subject site) and Heritage Square South and the adjacent U.S. Highway 24 right-of-way. Ordinance No. 6607 rezoned the land associated with Heritage Square South to Commercial Planned Unit Development District. The Heritage Square North (subject site) was not rezoned at the time because the applicant was not ready to submit a complete PUD application. However, the site was annexed to facilitate the improvements at the intersection and public utility improvements for the area. Heritage Square North (subject site) remains zoned as Pottawatomie County CH, Highway Commercial District, but was annexed into the City. A restrictive covenant was proposed by the applicant and approved by the City Commission that recognized the unique development process and established an agreement that the property owner would apply for City rezoning before any platting or building permits could be completed. The preferred district to rezone to at the time was to a PUD, but it was not mandatory.

The applicant has also proposed a Preliminary Plat to be known as Heritage Square North, that will create 14 commercial lots. Please see the corresponding Preliminary Plat Staff Memorandum for more information on the proposed subdivision.

THIRTEEN MATTERS TO BE CONSIDERED WHEN REZONING

1. EXISTING USE: Vacant ground currently being used as row crop agriculture

2. PHYSICAL AND ENVIRONMENTAL CHARACTERISTICS: The subject site is relatively flat, with a steep bank adjacent to the Big Blue River to the north. Improvements on the stream bank have been done in the past to reduce erosion and stabilize the bank on the subject site.

The approximate western half of the property is currently located in the FEMA mapped Floodway and 1% Annual Chance Floodplain (100-year floodplain). This area of the property has been filled and leveled in the past to increase the amount of developable land. This fill in the Floodway was done in 2013 and 2014 in accordance with the City's Floodplain Regulations and State Regulations, including proving that the base flood elevation will not be increased by the addition of the fill in the area. The applicant has submitted a Letter of Map Amendment, based on Fill (LOMR-F) application to FEMA. If approved, the LOMR-F will provide documentation stating that the fill has been properly added to remove the site from the Floodway and 1% Annual Chance Floodplain.

3. SURROUNDING LAND USE AND ZONING:

NORTH: Big Blue River on private property, City of Manhattan raw water well field and row-crop agriculture land; Riley County General Agriculture District.

SOUTH: U.S. Highway 24 right-of-way, a four-lane divided highway, a variety of highway service and retail commercial properties associated with Heritage Square South and individual properties in rural Pottawatomie County; Heritage Square South Commercial PUD and Pottawatomie County CH, Highway Commercial District.

EAST: A variety of highway service and retail commercial properties on individual properties in rural Pottawatomie County and single-family and two-family residential neighborhoods off of Excel Road; Pottawatomie County CH District, Pottawatomie County R-1, Single-Family Residential District and Pottawatomie County R-2, Two-Family Residential District.

WEST: A variety of highway service, retail commercial and industrial properties on individual properties in rural Pottawatomie County; Pottawatomie County CH District.

4. GENERAL NEIGHBORHOOD CHARACTER: The surrounding area is the commercial corridor along U.S. Highway 24. These uses include older highway service commercial uses, such as new and used car dealerships and mechanics, to new highway service and retail uses along the corridor, especially in the Heritage Square South PUD. To the east of the site includes residential lots and industrial uses. The area to the west also includes row crop agriculture uses and a tree farm.

5. SUITABILITY OF SITE FOR USES UNDER CURRENT ZONING: The subject site is annexed into the City, but was never rezoned to a City zoning district. The Pottawatomie County Zoning District in place at the time the subject site was annexed was CH, Highway Commercial District.

A restrictive covenant was submitted by the applicant at the time of annexation and agreed upon by the City Commission that before the property could be subdivided or built upon, the subject site would need to be rezoned.

Based on the unique situation, the subject site is not suitable under the current zoning district.

6. COMPATIBILITY OF PROPOSED DISTRICT WITH NEARBY PROPERTIES AND EXTENT TO WHICH IT MAY HAVE DETRIMENTAL AFFECTS: The proposed rezoning of the subject site will be compatible with surrounding properties and should have minimal detrimental effects on those properties. The surrounding properties, both in Pottawatomie County and within the City annexed, Heritage Square South PUD, consist of uses permitted in the C-5, Highway Service Commercial District (see attached district regulations).

The restrictive covenant previously mentioned stated that a Commercial PUD would be a preferred district to rezone the property. The preference at the time was to ensure adequate control over the development's site and building design and to be consistent with the Heritage Square South zoning. With the Heritage Square South development nearly complete, the majority of the commercial development conforms to the C-5 District, with only minor variations of the C-5 District's setbacks for off-street parking. Additionally, because the Heritage Square South PUD did not have a detailed site and building design to address future phases, the PUD Amendment process proved to be extremely burdensome for developments that were consistent with the C-5 District and the surrounding areas. For these reasons, the applicant has chosen to seek the straight C-5 District rezoning.

7. CONFORMANCE WITH COMPREHENSIVE PLAN:

Heritage Square North is shown on the Future Land Use map in the Northeast Planning Area of the 2035 Manhattan Area Comprehensive Plan as Community Commercial (CC). Policies of the CC category are below:

CC-1: Characteristics

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

CC-2: Location

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

CC-3: Size

Typically require a site of between 10 and 30 acres.

CC-4: Unified Site Design

Establish a unified site layout—landscaping, signage, pedestrian, and vehicular circulation—for the center to guide current and future phases of development. Site design features should be used to create visual interest and establish a more pedestrian-oriented scale for the center and between out lots.

CC-5: Building Design and Character

Require Community Commercial Centers to meet a basic level of architectural detailing, compatibility of scale with surrounding areas, pedestrian and bicycle access, and mitigation of negative visual impacts such as large building walls, parking areas, and service and loading areas. While these requirements apply to all community commercial development, they are particularly important to consider for larger footprint retail buildings, or “big-box” stores. A basic level of architectural detailing shall include, but not be limited to, the following:

- *Façade and exterior wall plane projections or recesses;*
- *Arcades, display windows, entry areas, awnings, or other features along facades facing public streets;*
- *Building facades with a variety of detail (materials, colors, and patterns); and*
- *High quality building materials.*

CC-6: Organization of Uses

Concentrate Community Commercial services within planned activity centers, or commercial nodes, throughout the community. Cluster complementary uses within walking distance of each other to facilitate efficient, “one-stop shopping”, and minimize the need to drive between multiple areas of the center. Large footprint retail buildings, or “big-box” stores should be incorporated as part of an activity center or node along with complementary uses, such as high density residential, where feasible. Linear development patterns, particularly when parcels provide a single use and are developed independently, can require multiple access points and lead to disruption of traffic flow on adjacent streets. Although lot sizes and/or configurations in some areas may warrant the use of a more linear development pattern, it is generally discouraged.

CC-7: Circulation and Access

Provide clear, direct pedestrian connections through parking areas to building entrances, to surrounding neighborhoods and streets, and transit stops. Integrate main entrances or driveways with the surrounding street network to provide clear connections between uses for vehicles, pedestrians, and bicycles. Provide a limited number of vehicle access points to minimize impacts on surrounding uses and maintain an efficient traffic flow to and from the site.

CC-8: In fill and Redevelopment / Adaptive Reuse

Encourage the revitalization and/or redevelopment of underutilized Community Commercial areas over time to take advantage of existing infrastructure and promote the efficient use of available land. Support opportunities to repurpose large surface parking

lots typical of Community Commercial areas by incorporating additional pad sites for office or commercial uses or high density residential along the street edge. Support the adaptive reuse of existing buildings in older strip commercial centers on smaller lots where infill and redevelopment is less viable.

The proposed Preliminary Plat will create 14 commercial lots and will dedicate road right-of-way to connect to the existing signalized intersection at U.S. Highway 24 and South Port Drive. The proposed rezoning conforms to the Comprehensive Plan.

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

- June 29, 2006: City of Manhattan receives requests for island annexation of the proposed Heritage Square North and Heritage Square South tracts from Roger Schultz and Rob Eichman.
- July 11, 2006: City Commission approves Resolution Nos. 071106-H & I, requesting the Board of Pottawatomie County Commissioners to make positive findings regarding the requested island annexation of Heritage Square North and Heritage Square South.
- July 27, 2006: Board of Pottawatomie County Commissioners makes positive findings regarding the island annexations of Heritage Square North and Heritage Square South.
- August 15, 2006: City Commission approves first reading of ordinances annexing Heritage Square North and Heritage Square South; and, approves Resolution No. 081506-A, requesting the Board of Pottawatomie County Commissioners to make positive findings regarding the island annexation of that portion of the US 24 Right-of-way that adjoins Heritage Square.
- August 18, 2006: City of Manhattan receives Consent to Annexation from the Kansas Department of Transportation for that portion of the US Highway 24 right-of-way that adjoins Heritage Square South, consisting of 6.791 acres.
- August 21, 2006: Board of Pottawatomie County Commissioners makes positive findings regarding the island annexation of that portion of the US Highway 24 right-of-way that adjoins Heritage Square South.

- October 16, 2006 Manhattan Urban Area Planning Board holds public hearing and recommends approval (7-0), of the rezoning the proposed Heritage Square South and the adjoining US Highway 24 right-of-way from County - CH, Highway & Commercial Corridor District, to PUD, Commercial Planned Unit Development District.
- November 7, 2006 City Commission approved first reading of an ordinance annexing the 6.8-acre portion of the US Highway 24 right-of-way that adjoins the Heritage Square South development; and, approved first reading of an ordinance rezoning the proposed Heritage Square South development and the adjoining portion of US Highway 24 right-of-way, to PUD, Planned Unit Development District.
- February 6, 2007 City Commission approves Ordinance No. 6606 annexing proposed Heritage Square North, proposed Heritage Square South and the 6.8-acre portion of the US Highway 24 right-of-way that adjoins Heritage Square South; and, approved Ordinance No.6607 rezoning the Heritage Square South and the adjoining portion of US Highway 24 right-of-way, to PUD, Commercial Planned Unit Development District.

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

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

The proposed rezoning will establish a City Zoning District that is similar in use and development standards to the adjacent properties along the U.S. Highway 24 Corridor. The proposal is consistent with the intent of the C-5 District regulations.

10. RELATIVE GAIN TO THE PUBLIC HEALTH, SAFETY AND WELFARE THAT DENIAL OF THE REQUEST WOULD ACCOMPLISH, COMPARED WITH THE HARDSHIP IMPOSED UPON THE APPLICANT: There does not appear to be an adverse impact on the public health, safety and general welfare as a result of the rezoning. The proposed rezoning will allow uses and a development pattern that is consistent to the existing uses in the area. It may be a hardship on the applicant if the rezoning is denied as no adverse affect on the public is anticipated.

11. ADEQUACY OF PUBLIC FACILITIES AND SERVICES: Adequate public facilities and services are available to serve the site. Intersection improvements and improvements to the public utilities are completed to provide adequate services to the commercial development.

12. OTHER APPLICABLE FACTORS:

13. STAFF COMMENTS: City Administration recommends approval of the proposed rezoning of Heritage Square North from Pottawatomie County CH, Highway Commercial District to C-5, Highway Service Commercial District, based on the findings in the Staff Report.

ALTERNATIVES:

1. Recommend approval of the proposed rezoning of Heritage Square North from Pottawatomie County CH, Highway Commercial District to C-5, Highway Service Commercial District, stating the basis for such recommendation.
2. Recommend denial of the proposed rezoning, stating the specific reasons for denial.
3. Table the proposed rezoning to a specific date, for specifically stated reasons.

POSSIBLE MOTION:

The Manhattan Urban Area Planning Board recommends approval of the proposed rezoning of Heritage Square North from Pottawatomie County CH, Highway Commercial District to C-5, Highway Service Commercial District, based on the findings in the Staff Report.

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

DATE: September 21, 2016

CB/vr

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