

***MINUTES***  
***CITY COMMISSION MEETING***  
***TUESDAY, JUNE 6, 2006***  
***7:00 P.M.***

The Regular Meeting of the City Commission was held at 7:00 p.m. in the City Commission Room. Mayor Bruce Snead and Commissioners Tom Phillips, Mark Hatesohl, Jayme Morris-Hardeman, and Ed Klimek were present. Also present were the City Manager Ron R. Fehr, Deputy City Manager Diane Stoddard, Assistant City Manager Jason Hilgers, Assistant City Attorney Katie Jackson, City Clerk Gary S. Fees, 9 staff, and approximately 18 interested citizens.

**PLEDGE OF ALLEGIANCE**

Mayor Snead led the Commission in the Pledge of Allegiance.

**PROCLAMATION**

Mayor Snead proclaimed June 16-17, 2006, ***Juneteenth***. Gerry Walton, Chairman, and Don Slater, Treasurer, were present to receive the proclamation.

**PUBLIC COMMENTS**

Mayor Snead opened the public comments.

Hearing no comments, Mayor Snead closed the public comments.

**COMMISSIONER COMMENTS**

Mayor Snead provided an update on the ongoing investigations regarding Parks and Recreation and anticipated announcements to be made by the Riley County Police Department and informed the community that work continues on finalizing the City's Management Report.

## CONSENT AGENDA

(\* denotes those items discussed)

### MINUTES

The Commission approved the minutes of the Special City Commission Meeting held Tuesday, May 9, 2006, and the Regular City Commission Meeting held Tuesday, May 16, 2006.

### CLAIMS REGISTER NO. 2561

The Commission approved Claims Register No. 2561 authorizing and approving the payment of claims from May 10, 2006, to May 30, 2006, in the amount of \$2,944,094.89.

### FINAL PLAT – OAKTREE TOWNHOMES, UNIT TWO

The Commission accepted the easements and rights-of-way, as shown on the Final Plat of Oaktree Townhomes, Unit Two, a Residential Planned Unit Development, generally located north of the Miller Ranch Water Tower, based on conformance with the Manhattan Urban Area Subdivision Regulations.

### FINAL PLAT – HIGHLAND MEADOWS ADDITION, UNIT THREE

The Commission accepted the easements and rights-of-way, as shown on the Final Plat of Highland Meadows Addition, Unit Three, generally located at the north end of Haventon Court, based on conformance with the Manhattan Urban Area Subdivision Regulations.

### FINAL PLAT – BROOKFIELD ADDITION, UNIT EIGHT

The Commission accepted the easements and rights-of-way, as shown on the Final Plat of Brookfield Addition, Unit Eight, generally located southwest of the intersection of Casement Road and Marlatt Avenue, based on conformance with the Manhattan Urban Area Subdivision Regulations.

### FINAL PLAT – STONECREEK BUSINESS CENTER ADDITION, UNIT TWO

The Commission accepted the easements and rights-of-way, as shown on the Final Plat of Stonecreek Business Center Addition, Unit Two, a Commercial Planned Unit Development, generally located southeast of the intersection of Kimball Avenue and Anderson Avenue, based on conformance with the Manhattan Urban Area Subdivision Regulations.

## CONSENT AGENDA (CONTINUED)

### ORDINANCE NO. 6544 – REZONE – MANHATTAN MARKETPLACE ADDITION, UNIT TWO

The Commission overrode the recommendation of the Manhattan Urban Area Planning Board and approved Ordinance No. 6544 rezoning Manhattan Marketplace Addition, Unit Two, generally bounded by Tuttle Creek Boulevard to the east, Bluemont Avenue to the north, North 4<sup>th</sup> Street to the west, and Leavenworth Street to the south, to PUD Commercial Planned Unit Development District as modified by the revised Preliminary Development Plan replacing the hotel use in Building P with residential dwellings, based on the findings in the Staff Report as updated by a Cover Memorandum, with the four (4) conditions of approval listed in the Staff Report. (*See Attachment No. 1*)

### ORDINANCE NO. 6546 – ISSUE – SPECIAL OBLIGATION TAX INCREMENT REVENUE BONDS – DOWNTOWN DEVELOPMENT – NORTH PROJECT

The Commission approved Ordinance No. 6546 authorizing the issuance of up to \$25 million in special obligation TIF revenue bonds for the North Project area of Downtown Redevelopment.

### ORDINANCE NO. 6545 – VACATE UTILITY EASEMENT – WOODLAND HILLS ADDITION, UNIT FIVE

The Commission approved Ordinance No. 6545 vacating a portion of the utility easement on a portion of a twenty (20) foot utility easement on Lots 75, 76, and 77, Woodland Hills Addition, Unit Five, an addition to the City of Manhattan, Riley County, Kansas.

### PUBLIC HEARING – VACATE UTILITY EASEMENT - LOT 15, GRAND MERE VANESTA ADDITION, UNIT ONE

Mayor Snead opened the public hearing.

Hearing no comments, Mayor Snead closed the public hearing.

### FIRST READING – VACATE UTILITY EASEMENT - LOT 15, GRAND MERE VANESTA ADDITION, UNIT ONE

The Commission approved first reading of an ordinance vacating a portion of the utility easement on a portion of a sixteen (16) foot utility easement on Lot 15, Grand Mere Vanesta Addition, Unit One, an addition to the City of Manhattan, Riley County, Kansas.

## CONSENT AGENDA (CONTINUED)

### FIRST READING – AMEND LEGAL DESCRIPTION – ST. JOSEPH VILLAGE, INC. – INDUSTRIAL REVENUE BONDS (IRBS)

The Commission approved first reading of an ordinance authorizing the execution and delivery of (1) a first supplemental indenture by and between the City of Manhattan, Kansas, as issuer, and Bank of New York Trust Company, N.A., as successor Trustee, and (2) a first supplemental lease by and between the City of Manhattan and St. Joseph Village, Inc.; and authorizing the execution and delivery of a corrective quitclaim deed.

### RESOLUTION NO. 060606-A – GRAND VISTA ADDITION, UNIT 1 – STREET IMPROVEMENTS (ST0527)

The Commission found the petition sufficient and approved Resolution No. 060606-A finding the street improvements for Grand Vista Addition, Unit 1, advisable and authorizing construction.

### RESOLUTION NO. 060606-B – GRAND VISTA ADDITION, UNIT 1 - WATER IMPROVEMENTS (WA0520)

The Commission found the petition sufficient and approved Resolution No. 060606-B finding the water improvements for Grand Vista Addition, Unit 1, advisable and authorizing construction.

### RESOLUTION NO. 060606-C – GRAND VISTA ADDITION, UNIT 1 – SANITARY SEWER IMPROVEMENTS (SS0519)

The Commission found the petition sufficient and approved Resolution No. 060606-C finding the sanitary sewer improvements for Grand Vista Addition, Unit 1, advisable and authorizing construction.

### AGREEMENT – ENGINEERING SERVICES – GRAND VISTA ADDITION, UNIT 1, IMPROVEMENTS

The Commission authorized the Mayor and City Clerk to execute an agreement with Schwab-Eaton, Inc., P.A., of Manhattan, Kansas, to perform engineering services for improvements of Grand Vista Addition, Unit 1.

### SET PUBLIC HEARING DATE – LEVY – SPECIAL ASSESSMENTS (GOB 2006-B)

The Commission set June 20, 2006, as the date to hold the public hearing levying special assessments against the benefiting property in the following twenty-three (23) projects, which have been completed: *Brookfield Addition, Units 5 & 7, Phase I – Sanitary Sewer (SS0503), Street (ST0507), and Water (WA0503); Brookfield Addition, Units 5 & 7, Phase II – Sanitary Sewer (SS0503), Street*

## CONSENT AGENDA (CONTINUED)

### SET PUBLIC HEARING DATE – LEVY – SPECIAL ASSESSMENTS (GOB 2006-B) (CONTINUED)

*(ST0507), and Water (WA0503); Brookfield Addition, Units 5 & 7, Phase III – Sanitary Sewer (SS0503), Street (ST0507), and Water (WA0503); Brookfield Addition, Unit 6 – Sanitary Sewer (SS0505), Street (ST0510), and Water (WA0505); Highland Meadows Addition, Unit 1 – Sanitary Sewer (SS0501), Street (ST0503), and Water (WA0501); Prairie Lakes – Storm Drainage (SM0404); Prairie Lakes Addition, Unit 1 – Sanitary Sewer (SS0508), Street (ST0514), and Water (WA0508); Hackberry Addition, Unit 2 – Sanitary Sewer (SS0512) and Water (WA0512); and Lee Mill Heights Addition, Unit 2 – Sanitary Sewer (SS0504) and Water (WA0512).*

### \* PURCHASE PLAYGROUND EQUIPMENT – FRANK ANNEBERG PARK, TWIN OAKS, AND NORTHEAST COMMUNITY PARK

The Commission authorized City Administration to purchase playground equipment in the amount of \$39,834.20 for the Frank Anneberg Park, Twin Oaks, and Northeast Community Park Playground Equipment Project from Recreation Resource, of Augusta, Kansas.

### AGREEMENT – WASTEWATER TREATMENT PLANT STORMWATER PUMP REPLACEMENT PROJECT

The Commission authorized the Mayor and City Clerk to execute an agreement in the amount of \$38,440.00 with Letts, Van Kirk & Associates, of Kansas City, Kansas, for the Wastewater Treatment Plant Stormwater Pump Replacement Project.

### SOLICIT PROPOSALS – DESIGN – REPLACE ELECTRICAL TRANSFORMERS – WASTEWATER TREATMENT PLANT

The Commission authorized City Administration to solicit proposals for the design of the Replacement of the Electrical Transformers at the Wastewater Treatment Plant and appointed Commissioner Phillips to serve on the selection committee.

### BOARD APPOINTMENTS

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

#### *Code Appeals Board*

Re-appointment of Pat Cox, 7228 Deer Trail Rd., to a three-year Engineer term. Mr. Cox's term begins immediately and will expire on May 31, 2009.

## CONSENT AGENDA (CONTINUED)

### BOARD APPOINTMENTS (CONTINUED)

#### Downtown Business Improvement District

Appointment of Susan Kice, 3103 Harahey Ridge, to fill Mark Claussen's unexpired term. Ms. Kice's term begins immediately and will expire on December 31, 2006.

#### Housing Appeals Board

Re-appointment of Tim Trubey, 2920 Hickory Court, to a three-year term. Mr. Trubey's term begins July 1, 2006, and will expire on June 30, 2009.

Re-appointment of Gene Wiley, 1900 Kenmar Drive, to a three-year term. Mr. Wiley's term begins July 1, 2006, and will expire on June 30, 2009.

#### Joint Corrections Advisory Board

Re-appointment of Becky Topliff, 100 Courthouse Plaza, to a three-year Adult term. Ms. Topliff's term begins July 1, 2006, and will expire on June 30, 2009.

Re-appointment of Linda Teener, 1221 Thurston Street, to a three-year Adult term. Ms. Teener's term begins July 1, 2006, and will expire on June 30, 2009.

#### Riley County – Manhattan Health Board

Appointment of Paul Stagner, 2015 Meadowmere Court, to an unexpired Dentist term. Mr. Stagner's term begins immediately and will expire on January 31, 2007.

#### Social Service Advisory Board

Re-appointment of Maureen Konz, 2834 Oregon Lane, to a three-year term. Ms. Konz's term begins July 1, 2006, and will expire on June 30, 2009.

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

## GENERAL AGENDA

### PUBLIC HEARING – ADOPT REDEVELOPMENT PLAN - NORTH PROJECT OF DOWNTOWN REDEVELOPMENT

Jason Hilgers, Assistant City Manager and Redevelopment Coordinator, presented the item.

## GENERAL AGENDA (CONTINUED)

### PUBLIC HEARING – ADOPT REDEVELOPMENT PLAN - NORTH PROJECT OF DOWNTOWN REDEVELOPMENT (CONTINUED)

Ruth Schrum, 720 Midland Avenue, informed the Commission that she was greatly affected by the downtown redevelopment project and was concerned that the actions would hurt small businesses in Manhattan. She asked if the City has a paid lobbyist and spoke in concern with the unanimous actions of the Commission on this item.

Ron Fehr, City Manager, stated that the City has retained a lobbyist to help with legislative issues and interests, and provided additional information on the item.

Rick Kiolbasa, Dial Realty, informed the Commission that he is excited with the project and said that most folks are happy with their agreements and are moving forward.

Mayor Snead opened the public hearing.

Hearing no comments, Mayor Snead closed the public hearing.

### ORDINANCE NO. 6547 – ADOPT REDEVELOPMENT PLAN - NORTH PROJECT OF DOWNTOWN REDEVELOPMENT

After discussion, Commissioner Hatesohl moved to approve Ordinance No. 6547 adopting the Redevelopment Plan for the North Project. Commissioner Morris-Hardeman seconded the motion. On a roll call vote, motion carried 5-0.

### REQUEST FOR FUNDING - DOWNTOWN NATIONAL REGISTER DISTRICT PROJECT

Gwyn Riffel, representing Downtown Manhattan Inc. (DMI), introduced the item.

Jim Sherow, 529 Pierre Street, provided background information on the item and funding request from DMI. He then answered questions from the Commission.

Ron Fehr, City Manager, provided additional information on the item and answered questions from the Commission.

Jason Hilgers, Assistant City Manager and Redevelopment Coordinator, provided additional information on the item.

Ron Fehr, City Manager, and Jason Hilgers, Assistant City Manager and Redevelopment Coordinator, answered questions from the Commission.

## GENERAL AGENDA (CONTINUED)

### REQUEST FOR FUNDING - DOWNTOWN NATIONAL REGISTER DISTRICT PROJECT (CONTINUED)

Jim Sherow, 529 Pierre Street, provided additional information on the item and answered questions from the Commission.

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

After discussion, Commissioner Morris-Hardeman moved to allocate \$3,500.00 for the Downtown National Register Historic District Project. Commissioner Phillips seconded the motion. On a roll call vote, motion carried 4-1, with Commissioner Klimek voting against the motion.

### ORDINANCE NO. 6548 – AUTHORIZE CONDEMNATION PROCESS -NORTH PROJECT AREA - DOWNTOWN REDEVELOPMENT

Jason Hilgers, Assistant City Manager and Redevelopment Coordinator, presented the item.

Bob Welstead, Dial Realty, provided additional information on the item and answered questions from the Commission regarding the communications between the property owners in question and Dial Realty. He then answered questions from the Commission.

Ruth Schrum, 720 Midland Avenue, voiced concern that her properties were not allowed to stay in the downtown redevelopment plans.

Ron Fehr, City Manager, provided additional information about the item and answered questions from the Commission.

Jason Hilgers, Assistant City Manager and Redevelopment Coordinator, answered questions from the Commission.

Rick Kiolbasa, Dial Realty, provided additional information on the item and answered questions from the Commission.

After discussion, Commissioner Hatesohl moved to approve Ordinance No. 6548 declaring it necessary to acquire the subject properties of Penny Ferlemann Sizemore, 517 North 3<sup>rd</sup> Street and Marlene Ferlemann, 521 North 3<sup>rd</sup> Street, by condemnation. Commissioner Phillips seconded the motion. On a roll call vote, motion carried 5-0.

## GENERAL AGENDA (CONTINUED)

### PURCHASE AGREEMENT - MCCALL PROPERTY

Jason Hilgers, Assistant City Manager and Redevelopment Coordinator, presented the item.

Bob Welstead, Dial Realty, provided additional information on the item and answered questions from the Commission.

After discussion, Commissioner Morris-Hardeman moved to approve the modified McCall Real Estate Purchase Agreement with Dial Realty and authorize the Mayor and City Clerk to execute that agreement and all associated documents. Commissioner Phillips seconded the motion. On a roll call vote, motion carried 5-0.

### PROPERTY ACQUISITION - FIRE STATION NO. 5

Jerry Snyder, Director of Fire Services, presented the item and answered questions from the Commission.

Jerry Petty, Project Director, Grand Mere Development, provided additional information on the item and answered questions from the Commission.

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

Jerry Snyder, Director of Fire Services, provided additional information on the special assessments and answered questions from the Commission.

Jerry Petty, Project Director, Grand Mere Development, answered questions from the Commission regarding the roundabout on Kimball Avenue.

After discussion, Commissioner Morris-Hardeman moved to authorize the Mayor and City Clerk to sign a contract for purchase of approximately 2.67 acres of land, Lot 6, Grand Mere Village PUJ, from Grand Mere Development for the price of \$117,000.00 under the terms stipulated in the contract for sale of real estate. Commissioner Hatesohl seconded the motion. On a roll call vote, motion carried 5-0.

### ADJOURNMENT

At 8:48 p.m. the Commission adjourned.

  
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Gary S. Fees, CMC, City Clerk

## **STAFF REPORT**

### **APPLICATION TO REZONE PROPERTY TO PLANNED UNIT DEVELOPMENT DISTRICT FOR MANHATTAN MARKETPLACE ADDITION, UNIT TWO**

### **BACKGROUND**

**FROM:** R-2, Two-Family Residential District; R-3, Multiple-Family Residential District; C-2, Neighborhood Shopping District; C-4, Central Business District; C-5, Highway Service Commercial District; I-3, Light Industrial District; and, PUD, Commercial Planned Unit Development District

**TO:** PUD, Commercial Planned Unit Development District

**OWNERS:** Dial Manhattan LLC and others. The Manhattan City Commission authorized City Administration to initiate the unilateral rezoning of the 22 acre tract.

**APPLICANT:** Dial Manhattan LLC

**ADDRESS:** 11506 Nicholas St. #200, Omaha Ne, 68154-4421

**DATE OF PUBLIC NOTICE PUBLICATION:** Monday, April 10, 2006

**DATE OF PUBLIC HEARING: PLANNING BOARD:** Monday, May 1, 2006

**CITY COMMISSION:** Tuesday May 16, 2006

**LOCATION:** an area generally bounded by Tuttle Creek Boulevard to the east, Bluemont Avenue to the north, North 4<sup>th</sup> Street to the west, and Leavenworth Street to the south.

*(Note: Properties located at 312 Fremont Street and 318 Fremont Street are within the area to be rezoned; however, both properties have been left out of the rezoning site and will not be rezoned. 312 Fremont Street is zoned C-5 District. The current occupant is a plumbing business. The use at 318 Fremont Street is an apartment building, which is currently zoned R-3 District.)*

**AREA:** approximately 22-acres

*Attachment No. 1*

**PROPOSED USES:** Permitted uses are proposed to consist of all of the Permitted Uses and Conditional Uses of the C-4, Central Business District.

**PROPOSED BUILDINGS AND STRUCTURES:**

The site is within the North Project Area of the Downtown Redevelopment Plan and identified as the Tuttle Creek District in the Design Guidelines for Downtown Redevelopment.

Proposed Manhattan Marketplace Addition, Unit Two, will consist of lots for commercial, residential, and commercial/residential uses. A public plaza is proposed on Lot 15. There is an existing residential structure on lot 11, which will remain. All other proposed development is new construction.

Proposed Buildings by Use and Area

Note: lot coverage is generally equivalent to gross floor area for buildings described below. Residential buildings are described in terms of numbers of dwelling units.

Lot 6: One and two-story commercial Buildings K, J, I and O. Lot coverage is approximately 62,700 square feet. Building K is also proposed to have 10 second floor residential dwelling units. Height: 24-39 feet.

Lot 7: One-story commercial Buildings G and H. Lot coverage is approximately 22,233 square feet. Height: 22-30 feet.

Lot 8: One-story commercial Building F. Lot coverage is approximately 73,000 square feet. Height: 35 feet.

Lot 9: One-story commercial Buildings L, M and N. Lot coverage is approximately 17,295 square feet. Height: 22-28 feet.

Lot 10: Two-story residential Buildings S with 12 total dwelling units. Height: 27 feet.

Lot 11: Existing residential structure to remain on the site. Lot coverage is approximately 1,980 square feet and may be used by the applicant as their real estate office. Height: estimated 25 feet.

Lot 12: Two-story residential Buildings T and U with 14 (labeled 16 on plan sheet) dwelling units. Height: 26-25 feet

*Attachment No. 1*

Lot 13: Two-story residential Buildings R with 20 residential dwelling units. Height: 26-25 feet

Lot14: Three-story commercial/residential Building Q approximately 11,000 gross square feet of commercial floor area square on the first floor, and 22 residential apartments, 11 units per floor, on floors 2 and 3. Height: 46 feet

Lot 15: Four-story commercial/residential Building P with commercial, hotel, apartments and a parking garage, consisting of approximately 14,800 gross square feet of first floor commercial space; a hotel and restaurant on the first floor with 93 rooms on floors 2-4; 51 residential apartments, 17 units per floor, on floors 2-4; and a parking garage with approximately 270 parking spaces. Height: 57-66 feet

Lot 16: One-story commercial Building E. Lot coverage is approximately 7,429 square feet. Height: 24-28 feet

See building elevations and floor plans on PUD plan sheets for details on architecture and materials.

Construction Phasing

- Phase 1: Fall 2006 utility relocations
- Phase 2 & 3: Spring 2007: Lot 6, 7 and 9
- Phase 4: Fall 2007: Lots 10, 13 and 13
- Phase 5: Spring 2008 and Beyond: Lots 8, 14, 15, and 16

Design Guidelines for Downtown Redevelopment

The Design Guidelines for Downtown Redevelopment set out policy, intent, and conditions; site guidelines; building guidelines; supplemental guidelines for large format retail design and small scale residential guidelines; and, checklists for site and building guidelines. The Guidelines are not regulations. The Guidelines are for developers, architects, owners and decision makers for reviewing and evaluating proposals and design quality. Exceptions to the Guidelines may be considered if the overall intent of the Guidelines has been met.

The Design Guidelines are an Exhibit to the Final Development Agreement between the City and Dial Realty Development Corp. The Agreement requires Dial realty to identify that the proposed improvements comply with the Design Guidelines. A letter in the application from Patrick Schaub, AIA, Bowman Bowman Novick Inc., notes that the proposed development is in substantial conformance with the Design Guidelines.

Design Guideline Exceptions

City Administration notes that an Exception is applicable to Building L, due to orientation and siting of the building façade, form and detailing with respect to Bluemont Avenue and Tuttle Creek Boulevard frontages. Both street frontages are high traffic streets. Doorways facing the streets are undesirable. Orientation is more appropriate to the internal parking area. Pedestrian access is provided from abutting street sidewalks. Frontages are landscaped to reduce the building's façade, which does not address the street frontage according to the Guidelines.

Buildings E, L, M and N's rear facades are visible from public streets and do not have a consistent visual interest as front facade treatments. The rear façade of E is visible from Leavenworth Street, N and L from Bluemont Avenue, and L and M from Tuttle Creek Boulevard. All buildings must have a rear façade. In these cases, the rear facades face high traffic streets. In addition, materials are similar to front façade treatments and include pilasters, as well as intensive plantings on L, M, and N's street facades.

**PROPOSED LOT COVERAGE**

<i>Use</i>	<u>Square Feet</u>	<u>Percentage</u>
Buildings	299,124.8	35%
Parking and Driving Lanes	280,965.33	33%
Streets (Travel Easements)	63,213.84	7%
Open/Landscape Space	213,858.25	25%
<b>Total</b>	<b>857,162.53</b>	<b>100%</b>

All buildings will use wall signs. No other type of signage is proposed in Unit Two. Signs are located over building entrances as depicted on elevation drawings.

**PROPOSED LIGHTING:** There are four types of pole mounted lights: 14-foot pedestrian scale lights, 27-foot parking lot lights and 32-foot entry lights off Tuttle Creek Boulevard. Building lights are decorative exterior lights. All lights are downcast and shaded, full cut-off except for those lights used for building accent.

**REVIEW CRITERIA FOR PLANNED UNIT  
DEVELOPMENTS**

*Attachment No. 1*

**1. LANDSCAPING:** The proposed landscape plan is exceptionally well done in terms of coverage, number and variety of shade and ornamental trees, evergreen trees, shrubs, foundation plantings, parking lot landscaping, screening, and ground cover throughout the site. The landscaping plan conforms to the requirements of the Design Guidelines. Underground irrigation is proposed to maintain the landscaping, which will be maintained by the owner.

**2. SCREENING:** Dumpsters are proposed to be screened by masonry enclosures with doors and. Loading and trash compacter locations adjacent to the rear of Building F will be screened from residential Buildings T and U by an 8 foot masonry screen wall with a green trellis attached to the face. Other residential building will be screened by landscaping from commercial area. Roof-top equipment will need to be screened by parapet walls or similar treatment.

**3. DRAINAGE:** The site is proposed to drain to the east to inlets and then to the drainage channel along the east side of Tuttle Creek Boulevard. A comprehensive drainage plan was submitted for the North Project Area. The drainage system has been reviewed and accepted by the City Engineer (*see attached memo from the City Engineer*).

Adequate inlets and improvements will be provided to assure the drainage system will work.

**4. CIRCULATION:**

Public Access

The proposed internal circulation plan provides for safe, convenient and efficient movement of goods, motorists, bicyclists, and pedestrians. Conflicts between motorists and pedestrians are minimized. The site will be accessed from the surrounding street system and a right-in and right-out off Tuttle Creek Boulevard. Internal travel easements and public streets will provide access to all lots in the PUD. Sidewalks are proposed throughout the site, as well as along Tuttle Creek Boulevard (see comment below on proposed KDOT Grant). Sidewalks in traffic ways will be brick paved to emphasize pedestrian crossings.

The Bicycle Master Plan shows a bike route along Tuttle Creek Boulevard, which will be provided by the proposed sidewalk along the street and also serves as a connecting link of the Linear Trail, subject to KDOT approving a grant for the improvement. Bike racks are shown on the north sides of Buildings O and F.

The applicant's traffic analyses were comprehensive for the entire North Project Area and indicate nominal impact on the surrounding transportation network as a result of the proposed development. The City Engineer has reviewed and accepted the analysis, with comments about future street improvement projects and their timing (*attachment*).

*Attachment No. 1*

Properties located at 312 Fremont Street and 318 Fremont Street will not be rezoned. Both properties are bounded on all sides by the proposed PUD. In order to maintain public access to the properties, Fremont Street right-of-way will be reduced from 60 feet in width to 30 feet in width. The 15 foot public alley will remain. The remainder of access to the two properties from the surrounding street system will be provided by travel easements, which serve in lieu of a public street. Travel easements are a grant of easement to the public for travel to the same extent as would be permitted over a public street. Travel easements are dedicated with the Final Plat.

The two properties not included in the rezoning must be provided adequate public access. 312 Fremont Street has parking access off the existing public alley and no driveway access off Fremont Street. 318 Fremont Street has driveway access off Fremont Street and the public alley.

The Subdivision Regulations indicate that travel easements are to be used to provide internal access within a subdivision and shall not be permitted to provide access between subdivisions. For the proposed PUD to function in the form that has been proposed, internal access by travel easements are needed throughout Manhattan Marketplace Unit Two. It is impractical to maintain the 60 feet of right of way for Fremont Street. The combination of travel easements and public rights-of-way to 312 Fremont Street and 318 Fremont Street will provide adequate public access.

Off-Street Parking

The off-street parking requirements of the Manhattan Zoning Regulations do not require parking in the C-4 District for any use. Regardless, the applicant has proposed a total of 1,063 parking spaces consisting of 1,034 off-street parking spaces and 29 handicap parking spaces. The total does not include parking garage spaces, which is estimated at 270 spaces. Off-street parking is provided in parking lots and travel easements. On street parking on 4<sup>th</sup> Street is not included in the PUD parking space count, but, as proposed by the applicant, is expected to meet a part of the residential demand.

The proposed number of parking spaces should be adequate. Without specific detailed floor plans, parking must be calculated based on gross floor area. Off-street parking demand is based on net floor area. Storage, bathrooms, mechanical rooms and similar areas that do not create parking demand are deducted from the total floor area. It is assumed that actual demand would be less than demand based on gross floor area. It should also be assumed that demand for every commercial and residential use will have to be met at the same time.

*Attachment No. 1*

Total gross commercial building floor area for the entire site is approximately 209,000 square feet. Using the most restrictive commercial ratio from the Zoning Regulations of 1 parking space per 200 square feet of floor area would require 1,045 off-street parking spaces. Using the Zoning Regulations shopping center ratio of 5.5 spaces per 1,000 square feet would require 1,150 off-street parking spaces.

The applicant has proposed to use shared as well as on street parking to provide for residential off-street parking demand. One hundred and seven (107) dwelling units are proposed. Total bedroom counts are unknown. Parking is proposed to the rear of buildings R, S, T and U and should provide at least one space per unit. On-street parking is expected to provide additional tenants with parking spaces. Parking for dwellings in Q and P will be assigned spaces in the parking garage. Residential uses in Building K will have to use parking in a similar manner. The hotel will be assigned a level of the parking garage as well. There are 270 estimated parking spaces in the garage.

**5. OPEN SPACE AND COMMON AREA:** Approximately 25% of the site is open space, which will be maintained by the applicant.

**6. CHARACTER OF THE NEIGHBORHOOD:** The site is within a commercial service/retail corridor, and bounded on the east by Tuttle Creek Boulevard, on the west by North 4th Street, on the south by the Central Business District, and the north by Bluemont Avenue and a mixture of retail and service retail uses. A mix of single-family, two-family and multiple-family buildings are within the site. The area to the west of the site is characterized as a mix of low and medium density residential uses. Community facilities and commercial uses are west of the site along Osage and Leavenworth Streets.

## **MATTERS TO BE CONSIDERED WHEN CHANGING ZONING DISTRICTS**

**1. EXISTING USE:** The site is dominated by the C-5 District. Residential dwellings are generally located in the western part of the site.

**2. PHYSICAL AND ENVIRONMENTAL CHARACTERISTICS:** Generally flat with commercial and residential structures throughout the tract. Residential yards have lawns and trees. Commercial properties are dominated by the commercial building. Many of the commercial sites are not landscaped. Existing drainage is to the east to the ditch along the west side of Tuttle Creek Boulevard. The site is located in a 500 Year Flood Plain and is not subject to flood plain development regulations

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

**(a.) NORTH:** Bluemont Avenue, commercial retail and service uses; C-5 District and PUD

**(b.) SOUTH:** Leavenworth Street, Manhattan Town Center; C-4 District.

**(c.) EAST:** Tuttle Creek Boulevard, commercial/retail uses: C-5 District and PUD.

**(d.) WEST:** N. 4<sup>th</sup> Street, single-family, two-family, multiple-family residential uses, community facilities (Senior Center); R-M, Four Family Residential District and R-2 District with TNO, Traditional Neighborhood Overlay District.

**4. CHARACTER OF THE NEIGHBORHOOD:** See above.

**5. SUITABILITY OF SITE FOR USES UNDER CURRENT ZONING:** The existing uses in the various zoning districts throughout the 22 acre tract are suitable for the districts in which they are located, either as a permitted, conditional or nonconforming use.

**6. COMPATIBILITY OF PROPOSED DISTRICT WITH NEARBY PROPERTIES AND EXTENT TO WHICH IT MAY HAVE DETRIMENTAL AFFECTS:** The proposed PUD will allow as permitted uses all of the permitted and conditional uses of the C-4 District. Expected increases in traffic, light, and noise will be consistent with the commercial and residential character of the neighborhood. Minimal impact on adjacent properties is anticipated. N. 4<sup>th</sup> Street will separate the PUD from residential uses to the west. The increased width of N. 4<sup>th</sup> Street right-way and the orientation of proposed residential buildings in the PUD, which are proposed to front on the east side of N. 4<sup>th</sup> Street are a compatible use consistent with the residential neighborhood to the west. Commercial areas in the PUD are to the east of the proposed residential dwellings along N. 4<sup>th</sup> Street.

The site is east of the Runyon house, which is a designated historic structure. As a part of the overall project, Dial Realty applied for a National Pollution Discharge Elimination System (NPDES) permit, which necessitated a review as per Section 106 of the National Historic Preservation Act. The City is working with State Historic Preservation Officer of the Kansas State Historical Society to address impacts on historic properties in the project site. This process will supersede the environs review required by State law.

*Attachment No. 1*

**7. CONFORMANCE WITH COMPREHENSIVE PLAN:** The Manhattan Urban Area Comprehensive Plan shows the site as Central Core District (CCD), which is a special purpose designation for the Downtown Core. The rezoning site is also designated as a primary redevelopment area for expansion of the Central Business District, in Downtown Tomorrow – A Redevelopment Plan for Downtown Manhattan, Kansas, adopted in May 2000.

The proposed rezoning conforms to the Comprehensive Plan.

**8. ZONING HISTORY AND LENGTH OF TIME VACANT AS ZONED:** The site has been zoned a variety of commercial, industrial and residential districts over time. Numerous buildings are located in the site with residential structures being some of the oldest and commercial more modern construction.

**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.

**10. RELATIVE GAIN TO THE PUBLIC HEALTH, SAFETY AND WELFARE THAT DENIAL OF THE REQUEST WOULD ACCOMPLISH, COMPARED WITH THE HARDSHIP IMPOSED UPON THE INDIVIDUAL OWNER:** There appears to be no relative gain to the public that denial would accomplish in comparison to the hardship to the owner. The site is part of the overall downtown redevelopment project and is an integral part of that project.

**11. ADEQUACY OF PUBLIC FACILITIES AND SERVICES:** The PUD plans show existing and proposed public utilities and services, which will adequately serve the site. Utility releases have been provided by private companies, except for Westar Energy, which has indicated a concern regarding the distribution of electricity and its electric lines and substation and the costs and impacts to the system. The applicant will need to ensure that Westar Energy provides a utility release with the Final Development Plan. Easements have been reviewed by City Administration and will adequately serve the development.

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

**13. STAFF COMMENTS AND RECOMMENDATION:** City Administration recommends approval of the proposed rezoning of Manhattan Marketplace Addition, Unit Two from R-2, Two-Family Residential District; R-3, Multiple-Family Residential District; C-2, Neighborhood Shopping District; C-4, Central Business District; C-5, Highway Service Commercial District; I-3, Light Industrial District; and, PUD, Commercial Planned Unit Development District, to PUD, Commercial Planned Unit Development District, with the following conditions:

1. Permitted uses shall include all of the Permitted Uses and Conditional Uses of the C-4, Central Business District.
2. 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.
3. All landscaping and irrigation shall be maintained in good condition.
4. Signs shall be provided as proposed in the application documents, and shall allow for exempt signage described in Article VI, Section 6-104 (A)(1),(2),(4),(5),(7) and (8); and Section 6-104 (B)(2), of the Manhattan Zoning Regulations, and temporary grand opening signs; and, menu boards for drive-up window restaurants.

**ALTERNATIVES:**

1. Recommend approval of the proposed rezoning of Manhattan Marketplace Addition, Unit Two from R-2, Two-Family Residential District; R-3, Multiple-Family Residential District; C-2, Neighborhood Shopping District; C-4, Central Business District; C-5, Highway Service Commercial District; I-3, Light Industrial District; and, PUD, Commercial Planned Unit Development District, to PUD, Commercial Planned Unit Development District stating the basis for such recommendation, with the conditions listed in the Staff Report.
2. Recommend approval of the proposed rezoning of Manhattan Marketplace Addition, Unit Two from R-2, Two-Family Residential District; R-3, Multiple-Family Residential District; C-2, Neighborhood Shopping District; C-4, Central Business District; C-5, Highway Service Commercial District; I-3, Light Industrial District; and, PUD, Commercial Planned Unit Development District, to PUD, Commercial Planned Unit Development District, and modify the conditions, and any other portions of the proposed PUD, to meet the needs of the community as perceived by the Manhattan Urban Area Planning Board, stating the basis for such recommendation, and indicating the conditions of approval.

*Attachment No. 1*

3. Recommend denial of the proposed rezoning, stating the specific reasons for denial.
4. 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 Manhattan Marketplace Addition, Unit Two from R-2, Two-Family Residential District; R-3, Multiple-Family Residential District; C-2, Neighborhood Shopping District; C-4, Central Business District; C-5, Highway Service Commercial District; I-3, Light Industrial District; and, PUD, Commercial Planned Unit Development District, to PUD, Commercial Planned Unit Development District, based on the findings in the staff report, with the following conditions:

**PREPARED BY:** Steve Zilkie, AICP, Senior Planner

**DATE:** April 26, 2006

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