

MINUTES
MANHATTAN URBAN AREA PLANNING BOARD
City Commission Room, City Hall
1101 Poyntz Avenue
December 3, 2007
7:00 p.m.

MEMBERS PRESENT: Stephanie Rolley, Chairperson; George Ham Vice-Chair; Jerry Reynard; Mike Hill; Mike Kratochvil; and Stacy Kohlmeier.

MEMBERS ABSENT: Bill Meredith.

YOUTH IN GOVERNMENT:

STAFF PRESENT: Eric Cattell, Assistant Director For Planning; Steve Zilkie, Senior Planner; Jane Winslow Senior Planner; Chad Bunger, Planner; Rob Ott, City Engineer; Ron Fehr, City Manager; Jason Hilgers, Assistant City Manager; Karen Davis, Director of Community Development; Bob Isaac, Riley County Planner.

OPEN PUBLIC COMMENTS

No one spoke.

CONSENT AGENDA

1. APPROVE THE MINUTES OF THE NOVEMBER 19, 2007, MANHATTAN URBAN AREA PLANNING BOARD MEETING.

Reynard moved that the Board approve the Consent Agenda. Kratochvil seconded the motion, which passed on a vote of 6-0.

GENERAL AGENDA

1. A PUBLIC HEARING TO CONSIDER THE REZONING OF A 1.26-ACRE TRACT OF LAND, FROM "G-1" (GENERAL AGRICULTURAL) TO "D-2" (LIGHT INDUSTRIAL), GENERALLY LOCATED APPROXIMATELY 500 FEET EAST OF THE INTERSECTION OF PECAN CIRCLE AND ROSENCUTTER ROAD. (SUMMIT GROUP, LLP)

Isaac presented the staff report, recommending approval. He indicated the applicant had received a variance to allow construction of a storage warehouse building below the required one-foot above base flood elevation. The rezoning was required before the building can be constructed.

Rolley opened the public hearing.

Brad Heinisch, Summit Group LLP one of the applicants, indicated the rezoning would result in no change of use on the site, they just wanted to put their construction storage in a building.

Rolley closed the hearing with no one else speaking.

The Planning Board had no questions.

Ham moved that the Manhattan Urban Area Planning Board recommend approval of the request to rezone the subject property from G-1, General Agricultural District to D-2, Light Industrial District, based on the findings in the staff report.

Hill seconded the motion, which passed on a vote of 6-0.

Isaac announced that the item would be heard on December 17, 2007 at 10:30 am by the Board of County Commissioners.

2. **A PUBLIC HEARING TO AMEND THE PRELIMINARY DEVELOPMENT PLAN OF MANHATTAN MARKETPLACE, UNIT TWO, COMMERCIAL PLANNED UNIT DEVELOPMENT (PUD) AND ORDINANCE NO. 6544. MODIFICATIONS INCLUDE, BUT ARE NOT LIMITED TO, PROPOSED CHANGES TO THE APPROVED SITE, ARCHITECTURAL, LANDSCAPE, FLOOR AND SIGNAGE PLANS, THE REMOVAL OF A BUILDING, AND OUTDOOR STORAGE. THE AMENDMENT SITE IS GENERALLY LOCATED NORTH OF OSAGE STREET, WEST OF TUTTLE CREEK BOULEVARD, SOUTH OF MORO STREET AND EAST OF N. 4TH STREET. (APPLICANT: DIAL-MANHATTAN SHOPS, LLC /OWNER: DIAL-MANHATTAN LLC)**

Rolley informed the public about how the hearing would be conducted and asked the public to limit comments to information that is pertinent the thirteen zoning standards and the three Planned Unit Development amendment standards that the Planning Board must consider.

Rolley asked the applicants to make their presentation.

Rick Kiolbasa, Dial Realty, said they had made some major changes to the amendment proposal based on comments from the Planning Board when it considered the request previously. He showed slides comparing site plans for the development master plan approved in April 2004, with the existing Preliminary Planned Unit Development (PUD) approved in 2006 and the current PUD amendment proposal, saying that they all had large format retail on the north end, smaller format retail to the south and residential along 4th Street. He said the building footprints had changed somewhat, but the overall concept was not changing significantly and that the Strasser House was remaining in its current location. He said all three plans emphasize 3rd Street as a pedestrian corridor and 4th Street as more of a vehicular

corridor. He said they were providing an urban solution to a suburban problem to help create a regional draw and that one store acting alone is not regional. He described how the original downtown, combined with the mall, Wal-Mart, the McCall Road corridor and now the proposed north project area and the future south project area all work together to form a regional draw as a district. He identified specific grocery, retail, restaurant and electronic stores that the community said it wanted as part of the development. He said groceries had also been identified in the Downtown Tomorrow Study.

Bob Welstead, President Dial Realty, showed slides and reviewed the design of the project and how it incorporates elements from the Design Guidelines, such as brick columns, limestone bases, glass storefronts, awnings, landscaped sidewalks, benches and bike racks, to help it be more comfortable and pedestrian friendly. He described how the Retail Place intersection is raised to slow vehicles down at the pedestrian crossings. He described the proposed landscaping along the 3rd Street corridor and the outdoor dining area at the corner of the HyVee store.

Pete Hosch, Assistant Vice President-Real Estate for HyVee, compared the typical prototype exterior elevations of HyVee with what was being specifically designed for the store in Manhattan to address local concerns. He said it has more of a pedestrian feel by bringing down the building's scale and utilizing wall projections, multiple entrances, brick, upper story windows, sidewalk landscaping, an outdoor seating/dining area by the deli and awnings. He said they made a number of out-of-the-box concessions that required approval from the president and vice-president of the company and the company is committed to the Manhattan market. He said major concessions for their company included adding trees along sidewalks and putting back the sidewalk curbing to create the streetscape feel. He said that raises insurance costs due to "slip and falls". Additionally, they reversed the pharmacy - grocery pick-up window direction of flow to address the city's concerns, requiring operational changes and use of a pneumatic tube for pharmacy transactions. The loading dock area was reconfigured to hide it more from view, requiring redesign of some of the interior layout of the store. He said they wanted to provide an outdoor seating area to add to the streetscape feel, but could eliminate it if the Board preferred to increase the amount of sidewalk landscaping to conform to the design guidelines. In closing Hosch said it is actually multiple stores within HyVee and they also provide a community room for use by the public.

Welstead indicated there are 8-foot tall screen walls on Moro and Retail Place to help screen the loading dock and compactor areas for HyVee and Petco and an 8-foot wall behind HyVee to screen this area from the Strasser House. He explained the landscaping associated with the Strasser House and its shared parking with the residential building to the south. He explained the two-storey residential 4-plex structures located directly west of HyVee and the walls along the rear to screen the loading dock area. Welstead outlined the pedestrian routes and connectivity throughout the development that link the trail along Tuttle Creek Boulevard with the internal streets and the pedestrian ways along 3rd Street and 4th Street. He said they

were hoping to open 3rd Street south to the downtown, to improve that connectivity. Welstead addressed the conditions of approval in the Staff Report, indicating they would add the pedestrian scale lights cited in Condition No. 1. He said their lease with Bed Bath and Beyond included a 400 square foot sign and asked the Board to consider 300 square feet, due to the distance it would be from Tuttle Creek Boulevard. He said they agree with the time limits on the seasonal outdoor parking lot sales area in Condition No. 3. He explained the percentages of EIFS on the eastern and northern facades of HyVee, being 32.2 % and 27.4 % respectively, while the other buildings utilized lower percentages than allowed, resulting in an overall percentage in the north development area of 16.5 %. Regarding Condition No. 5, he said they could add more sidewalk landscaping in front of HyVee, if the outdoor seating area was removed. He asked the Board to allow a waiver of the percentage of landscaping to recognize the seating area as contributing to the streetscape.

Brad Waller, Project Manager with HWS, explained his analysis of truck movements and volumes, saying both the Downtown Tomorrow Plan and Manhattan Transportation Strategy Plan designate 4th Street as a collector. He said the 4th Street Corridor and the round-a-bout on Bluemont Avenue were designed for large semi-truck turning movements. The circulation plan was to keep the larger trucks out of the 3rd Place and Retail Place corridors, which are more pedestrian oriented. They analyzed the anticipated volume of trucks servicing HyVee, with 30% on Mondays and Fridays between 7am and 2 pm, which is during the non-peak traffic hours. He said the increased volume of trucks would account for less than a 2% increase in overall vehicle volumes per day, which would have minimal impact on streets.

Rolley asked why trucks would not enter from Tuttle Creek Boulevard. Waller explained that they wanted to keep the 3rd Place intersection narrower and the front of the development more pedestrian oriented. Because KDOT only permitted a right-in, right-out on Tuttle Creek Boulevard, it limits the ability of northbound trucks from I-70 and US 24 from entering at that point and are more likely to use Leavenworth, or Bluemont Avenue to access 4th Street and the loading dock area.

Kiolbasa said they addressed the thirteen zoning standards in their application documents.

Ham asked about the outdoor seasonal sales area time limits and fencing. Kiolbasa said those applied to the parking lot sales area.

Ham asked about the pre-cast concrete on HyVee, which is not permitted by the Design Guidelines. Kiolbasa said it is being used on the rear and sides because it is more durable than masonry block. He said those areas will be painted to match the overall design and that the rear wall will be screened by the residential structures, screening walls and landscaping.

Ham asked about the vacant 15,000 square foot space south of HyVee that is proposed for possible outdoor garden sales and if that would minimize the parking lot

sales, because it's smaller than the area designated in the parking lot.

Hosch indicated it was HyVee's intent to provide outdoor seasonal sales in the space between the buildings and they might want to put in more of a masonry fence between the buildings with an entryway. If they do that between the buildings, they would not use the parking lot sales area. However, if the vacant space is built in the future, they would want the ability for parking lot seasonal sales.

Rolley commented on the detail of most of the plans; however the residential buildings were labeled conceptual.

Kiolbasa responded that the whole application is a Preliminary Plan, so they don't have final drawings yet on the residential buildings. He said they went farther on some of the commercial designs, because they have lease agreements for some buildings. With regard to ADA access to the lower residential level, he said they showed wheel chair lifts, however they might redesign the building's lower patio area, to address access better.

Rolley asked if Dial is comfortable with the proposed building materials and forms, for both the commercial and residential buildings. Kiolbasa confirmed that they were.

Rolley asked for the staff presentation.

Zilkie summarized the proposed changes to the existing PUD and that the modifications require an amendment. He indicated the number of residential dwelling units is reduced from 207 to 195, by elimination of the ten second floor units from Building K and loss of two units with the redesigned residential buildings behind HyVee. He described the change to signage on Building I for Bed Bath & Beyond and the City's recommendation of no more than 220 square feet. Building H, HyVee, was increasing from 68,500 sq. ft., to 78,113 sq. ft. or 12%. He said the PUD regulations allow a 10% increase, without an amendment. Building G, the vacant space, was increasing from approximately 7,000 sq. ft., to 15,737 sq. ft. and if added to the HyVee in the future, the store would be 93,850 sq. ft. for a 20% floor area increase over the existing PUD. One out-lot building was being eliminated in the area of the parking lot where the out door sales is proposed. Outdoor sales is a new use in the PUD. He said the pre-cast concrete on the rear of HyVee was a reasonable compromise, given that the majority of that wall will be screened by residential buildings, screening walls and landscaping. He said the city recommends that sidewalk landscaping be provided along the front of HyVee in addition to the sidewalk dining area, by adding landscaping between the planters, which would bring it close to the required 15%. Off-street parking associated with the twelve northernmost residential dwellings behind HyVee was eliminated and those dwellings would utilize the 16 adjacent parking paces on 4th Street. He said there were no changes to the 12-unit Building S, but the parking associated with it was reduced from 24, to 19 stalls. He said the landscaped screening wall behind the Strasser House has a 4-foot setback from the house which is marginal, but meets building

code requirements. He said the supplemental traffic analysis, accepted by the City Engineer, finds the street system has the capacity and is designed for anticipated truck movements. He said the overall parking count in the amendment portion of the PUD originally had 638 commercial and 38 residential stalls, for a total 676 stalls. The proposed amendment provides 680 stalls in the same area of the PUD, which should be adequate even with the seasonal sales area. City Administration recommended approval with the six conditions in the staff report.

Reynard asked about the screening between the rear of the commercial area, and the residential buildings and Strasser House. Zilkie confirmed there was a 13 foot wall behind the residences, combined with an 8 foot wall behind the Strasser House and a viburnum hedge along the parking lot east of residential Building S.

Reynard asked for clarification on truck movements entering the site.

Waller showed the auto-turning analysis for large semi-truck movements and explained how trucks would enter from 4th Street, onto Moro and then southbound into the rear dock area. Trucks would exit onto Retail Place and go west to 4th Street. He said smaller trash trucks would enter and exit the compactor area the same way.

In response to a question from Rolley, Zilkie clarified that Bowman, Bowman, Novick Architects was acting as a review architect for the City on the Marketplace PUD applications and building permits, with regard to application of the Design Guidelines.

Rolley asked if parking for the Strasser House would be covered by the PUD, if a restaurant went in it. Zilkie explained that the PUD is intended as an extension of the downtown C-4 Central Business District, which has no parking requirements. However, the entire PUD development was analyzed applying the typical 5.5 stalls per thousand square feet for shopping centers. In addition, there is some parking on 4th Street that could serve the Strasser House. While parking in the PUD is shared, the Strasser House is not close to most of it, so if it were used as a restaurant, parking most likely would occur on 4th Street. He said the developer may have an agreement on how parking is shared on the Lot 7.

Kiolbasa said they intend to use a cross-parking agreement between the residential building and Strasser House for shared parking on that lot. He said the Strasser House is small for a restaurant and would not require much parking.

Answering a question from Rolley, Zilkie confirmed that the parking within the PUD is intended to cover whatever use might go into the Strasser House.

Ham asked about the comments provided in two letters from Bowman, Bowman, Novick Architects and if the concerns in the first letter had been addressed. Zilkie indicated the majority of the comments regarding the HyVee were still applicable. Others, such as sidewalk landscaping further south in the development and parking

lot landscaping have been addressed. Zilkie said the staff report reflects some of those concerns. He explained that the Design Guidelines identify the ability of the Planning Board and City Commission to consider exceptions to the Guidelines, provided the overall intent and purpose of the Design Guidelines are being met, which are cited in the staff report. If the Planning Board feels that the intent of the Design Guidelines are being met, it can approve exceptions to provisions within them and possibly eliminate any of the applicable conditions of approval recommend by the City.

The Board took a five minute break. Upon reconvening, Rolley opened the public hearing.

Lisa Rockley, 426 Vattier, Executive Director for Downtown Manhattan Inc. (DMI), said DMI had been involved in the redevelopment planning process and is concerned that the PUD amendment does not satisfy several zoning criteria including, character of the neighborhood, compatibility of the proposal with nearby properties and the extent it may detrimentally affect those properties. The neighborhood is adversely affected by discouraging pedestrian walkability; the size of buildings; modification of traffic patterns; 24-hour truck traffic and discouraging access to downtown. She said the PUD does not integrate with the neighborhood, or the newly registered Downtown Historic District. She said the DMI Redevelopment Committee and Board of Directors are opposed to the amendment.

Karen Mayse, 3340 Newbury, President of the League of Women Voters (LWV), said their position statement advocates citizen input, appropriate construction, pedestrian accessibility, historic preservation and green space. She said the proposal does not meet zoning standards 5 and 6. Increasing the size of the big box is incompatible with the neighborhood and out of character. There is a reduction in housing units and landscaping, and it is important to provide affordable housing in the area where people can safely walk to various activities. She said amending the PUD would be a further erosion of what was a good urban plan that the public helped to develop. She said the LWV was one of many groups involved in identifying design concepts to be incorporated in a new urbanist mixed-use, pedestrian friendly development with attractive streetscapes. Instead of residential and small businesses, there are big boxes with large parking lots, that are disconnected, not pedestrian friendly and cut-off from the downtown. She said the LWV suggests slowing down the process to reconsider what the community wants for the downtown and does not support an amendment that does not meet all the zoning standards and design guidelines.

Trey Collins, 221 Colorado Street, Operations Manager Western ExtraLite, said they will be affected by the redevelopment and would have to move if the amendment is approved. They are excited about the prospect of rebuilding and reinvesting in the community and hope the amendment is approved.

Lyle Butler, President of the Manhattan Area Chamber of Commerce, indicated that

six and a-half years ago he and Brent Bowman held a series of meetings with thirty-one groups throughout the community to find out what people wanted to see incorporated, if the downtown was to be redeveloped. While there was not consensus on all identified items, there was consensus on seven principles. He said the Chamber has been involved because it is important to the entire community and there has been extensive citizen input. The seven items included: 1) good connectivity to the whole downtown including the core, the north and south redevelopment areas and across the street to the west, for pedestrians, bicyclists and vehicles; 2) develop a landscape and streetscape plan that compliments the whole area; 3) develop design standards to insure that new development is sensitive to the downtown setting and what is already there; 4) provide a mixed-use development incorporating housing, retail, restaurants and entertainment; 5) preservation of the downtown's history; 6) sensitivity to surrounding neighborhoods including family or owner occupied housing, the safety of the neighborhood, lighting and sidewalks; and, 7) that the developer, not the community, should take the majority of the financial risk. He said the Chamber supported the original concept plan in 2004 and the original PUD in 2006, because they met those seven principles. He said while the Chamber has not taken an official position on the previous or current amendment proposals, he felt Dial has listened to the concerns and made adjustments, to go back to reincorporate the seven principles. He closed by saying that businesses come and go, but if the seven principles are adhered to, the integrity of the downtown area will be maintained.

Peter Sultana, 914 Osage, Co-Chair of the Eastside Neighborhood Association, thanked Dial for listening to previous concerns and it is the Association's goal that the development be completed. However, they still have concerns that the proposal is not in line with zoning standards with regard to compatibility, use of materials on HyVee, and that the walls behind the residential buildings do not promote connectivity. He asked that the amendment be denied.

Tom Roberts, 2015 Pierre, Chair of the Historic Resources Board, outlined the purpose of the Board. He said the Board was strongly against the first amendment proposal, due to moving the Strasser House, incompatibility with the neighborhood and inconsistency with the 4th Street corridor. He said the Board had compromised significantly with regard to seven houses in the original Memorandum of Agreement, so the redevelopment could move forward. He said there are four more houses in line to be destroyed around the Bluemont - 4th Street round-a-bout. He applauded the new plan for protecting the Strasser House and partially restoring the residential area on 4th Street. He said some Historic Board members had concerns about standards 5 and 6, with regard to compatibility and character and that the size of the grocery is pushing the walls and utilities closer to the Strasser House. He said the livability of the residential dwellings is questionable. He said there has already been compromise and that as things move forward, there is a need to think about historic resources. He said the Historic Resources Board has not taken an official position on the proposal. He hoped the Historic Board would be looked to for advice.

Linda Glasgow, 2236 Snowbird, representing the Riley County - Manhattan

Preservation Alliance, said they are pleased the Strasser House is remaining in place. She asked the Board to make sure the house has enough room for a proper setting and enough parking to be a viable new use. She said they agree with the comments from previous groups and asked for denial of the request.

Ruth Schrum, 720 Midland, said she is a landowner with houses on 4th street and she cannot rent them, due to what's going on. She said she had owned a number of houses, apartments and businesses that have been torn down. She said a grocery store was never mentioned in early planning meetings and asked about the lack of parking for the residential units on 4th Street.

Rolley ask staff to clarify the parking. Zilkie explained the original PUD had off-street parking located between the two northernmost residential buildings, which is now proposed to be removed. There is now one longer residential building, which would utilize the adjacent 16 on-street stalls along the east side of 4th Street. He reminded the Board that off-street parking is not required in the C-4 District for any land use.

Schrum said the rules should be the same for everyone. She was opposed to the grocery store and the outdoor storage. She said the health, safety and welfare of people on 4th Street is endangered by all the trucks.

David MacFarland, 2030 Hunting Avenue, said Dial has only shown two plans and on the first one, the loss of housing was the best they could do and moving the Strasser House was the best they could do. Now the current plan is the best they can do. He suggested turning the new proposal down, to see what they bring back that is more like what the city staff, Planning Board, City Commission and public want for the area. He said the HyVee will not be a destination for foot traffic. He said while the new plan probably does meet the decision criteria that the Planning Board must use, he suggested if the Board votes to approve it, they will regret that the standards do not adequately convey the intent of what the public was hoping for and is not best for the city's future.

Bernd Foerster, 920 Ratone, indicated the city had received a grant to prepare a downtown redevelopment plan as a part of the Comprehensive Plan and had appointed a Steering Committee that he chaired, which included members from the Planning Board, Chamber of Commerce, Main Street Program, Historic Resources Board, KSU Dept. of Architecture Planning and Design, downtown merchants and residents. The Committee held numerous hearings to gain public input and produced the Downtown Tomorrow Plan in April 2000. He reviewed the recommendations from that Plan, saying the intension of the redevelopment plan was to enlarge the downtown with the addition of commercial activities that provide goods and services not already provided in the community and that would bring new customers to the area. He said previous opposition has resulted in some improvements to Dial's proposal, which is more acceptable than the last version. Large suburban development has taken place east of Tuttle Creek Boulevard and should not be built

in an area intended as an extension of the downtown. He said one reason for the already generous 60,000 square footage limitation was to insure that development did not conflict with the character of the existing residential neighborhood and the downtown. He said the Mall is successful because as it faces the downtown, its scale is lowered to the scale of the area, and all the big boxes and parking is not visible from Poyntz Avenue. The grocery is now proposed to be increased to 98,000 square feet, which is too large for the downtown. He said changes in zoning requirements may sometimes be justifiable, but not merely for the convenience of the applicant and they must be in the interest of the community. He said the public has the right to expect that reasonable requirements are fixed and won't change with the next meeting of the Planning Board. The 60,000 square foot limit was what the Steering Committee suggested and it shouldn't be increased. He urged the Board to deny the request to allow a future increase in the square footage.

Jeff Head, 3115 Heritage Ridge Court, said the downtown is the wrong location for HyVee and he had concerns with respect to character of the neighborhood. He said the numbers of trucks moving into the area is important, and while the street can handle it, the numbers affect the neighborhood.

Hosch indicated approximately 40 to 55 semi-trucks per week, plus approximately 50-55 smaller route delivery trucks are anticipated. Head asked if any are refrigerator trucks. Hosch indicated HyVee has refrigerator trucks and they can manage the timeframe of deliveries, because they control their own distribution.

Head suggested that with the area being for senior housing, daytime deliveries could pose a problem, and that diesel fumes from the trucks would pose a problem. He asked how many trucks would service a Kohl's store.

Kiolbasa said he didn't know, but that all the stores will have trucks coming to the development and that the street system is designed for it.

Head appreciated Dial's efforts to redesign, but suggested more trees are needed along 4th Street for the housing. He said the HyVee façade is improved, but there is too much outdoor storage, which is incompatible with pedestrian core area. He said size is a major concern because they are trying to place a big box store in to small an area. The big box is contrary to the vision for a downtown pedestrian area. He said there is a difference between pedestrian accessible and pedestrian friendly.

Gwyn Riffel, 1117 Hylton Heights Road, commended the Board on its work and said the Board needs to focus on the existing PUD, not the last proposal. He said any amendment to a Preliminary PUD should result in a positive improvement to the project, to enhance the neighborhood and not have a negative impact. He asked the Board to consider if the amendment meets the goals and guiding principles of the Comprehensive Plan. He read several of the principles, citing one as being most important; "To strengthen and promote downtown Manhattan as the City's primary business, retail, office, governmental and cultural center." He asked if the

amendment enhances the vitality of the downtown and what is the economic opportunity cost of accepting the amendment and not enhancing the regional critical mass of the downtown. He asked if the amendment meets the urban design criteria in the Downtown Tomorrow Plan and the public's vision, and the intent and purpose of revitalization. He said the HyVee amendment poses substantial changes to the existing PUD and will result in significant negative impacts on the downtown and neighborhood and should be denied.

Jim Roberts, 1900 Sunset Lane, said the truck movements through the Bluemont round-a-bout will cause a traffic backup and a traffic nightmare. The housing behind HyVee will be impacted by the noise and smell from the diesel trucks at the loading dock area and will be unbearable. He couldn't imagine anyone wanting to propose residential at that location. He said big boxes in the downtown are offensive and suggested looking at Lawrence's downtown as an example of a thriving area. He said there are no bike lanes on the plans and they need to be incorporated into the development. He said he welcomes HyVee, just not at this location.

Estella Sanders, 318 Fremont, said she lives in the middle of the redevelopment site and her water was shut off without being notified. The roads are gone and it is difficult to walk in the area. She said she is having to putting up with the dust and inconvenience. She wanted to know when the roads will be put back, when the buildings will go up, and when the people who have to live with this will be taken care of.

Kay Cardella, 323 S. 14th Street, asked if the apartments are to be ADA accessible and was concerned that the number of dwellings had been reduced. She said other shopping areas in the community need help and support, and HyVee could go there. She asked the Board to not approve the request.

Scott Quaintance, P.O. Box 1889, owner of the Quaintance-Garcia Apartments 318 Fremont Street, said the community was promised upscale shopping and a regional retail draw. He said basic necessities like food is not a regional draw. He said the development will look like the east side of Tuttle Creek Boulevard. He said pedestrians won't want to cross 4th Street with the large volumes of trucks that will pass each day. He said HyVee could put Ray's Apple Mart out of business and if approved, the Planning Board will put other small businesses out of business. He said the Dollar General Store that was bought out is being replaced by HyVee. As a tax payer he does not approve of this development and he may need to take his business out of town.

Paul Yarbrough, 405 Fremont, said there needs to be more parking on the 4th Street corridor as there is not enough for the existing residents. He said it's not fair for residents to lose parking so someone else can take it. He said his water was also turned off without notice. He said he is disabled and can't get in and out of his house and the construction is shaking his house and damaging the walls and foundation.

David Kromm, 2825 Virginia Drive, said the outdoor seasonal sales lot and fence is visual pollution. He expressed concern about runoff from the outdoor storage of gardening materials. He suggested taking another look at the outdoor sales and storage area. Not only does it take up parking, it's a source of a variety of pollutants.

Robert Caniff, 2905 Hickory Court, said he feels for property owners that have had properties condemned. He said he was speaking for his family and hopefully for the many people in the community that are not represented by the opposition groups. He said he would like to see the HyVee store and thinks it's a good development. He thought Dial had made improvements with what they had to work with. Caniff said this is an economic development area and he supported the proposal.

The Board took a break. Upon reconvening, Rolley asked the Board for any questions.

Reynard commented about the parking on the east side of 4th Street for the apartments and asked if there was also going to be parking on the west side of 4th Street. Zilkie said there would not be parking on the west side.

Kohlmeier mentioned that the existing PUD showed a driveway onto 4th Street associated with residential buildings, which eliminates some of the on-street parking. She thought there were a comparable number of stalls in the new plan, just in a different configuration.

Rolley asked Board members for their comments.

Reynard said he would vote to decline the amendment based on zoning standard 6, regarding compatibility with nearby properties and detrimental effects. He said the big box store is becoming too big. He has a major problem with the off-street parking for the apartments and it has to do with the surrounding properties and area. He did not feel that the Board can say that this is an island and treat it differently than anyplace else in the city. He agreed with Gwyn Riffel's comment that there is already an approved PUD and if it is going to be amended, then make it better. If it's not going to improve what has already been approved, then don't approve the amendment. Reynard said he still had a problem with the volume of trucks. He said he spoke to Rob Ott, City Engineer, who explained that the street designs are close to KDOT specifications, so the streets will handle the truck traffic. Reynard said it is the total volume of trucks for HyVee and the other stores in the area, which is going to be very high. It would not nearly approach this volume if the HyVee were not there. Reynard said it all came down to standard 6 and the detrimental effect on the surrounding properties.

Ham said in looking at the matters to be considered when amending a PUD, the first one is whether the proposed amendment is consistent with the intent and purpose of the approved PUD. He had a problem with the amendment in that it is not really consistent with the intent of the original PUD. He said there were hundreds of hours

of planning that went into it and we keep eroding those away and there are a number of items that are proposed to be amended. He had concerns with zoning standard 6, impact on the neighborhood, not only from truck traffic and parking, but in general on the residential area to the west. For those reasons he could not support the amendment.

Kohlmeier indicated she would support the PUD amendment, because she believed it is in substantial conformance with the original PUD. To put any type of retail development such as this PUD, or the original PUD together, would envision a large number of traffic and other changes that would transpire, regardless of the type of tenants. She did not think it was the Board's position to be looking at the types of tenants, unless they conform with the uses and the tenants that they know of at this point in time, do conform with the uses, so she will support the amendment.

Hill agreed with Kohlmeier, saying he thinks they are close enough in substantial compliance with the project. He did not think the project was perfect, saying everyone has different visions of what the project should be and probably none of us would say it's exactly what we hoped for, or envisioned. He said regarding the Planning Board's duty, it's in substantial compliance and it needs to move on to the City Commission. He said the Planning Board is an advisory board and is just looking at a small piece of the pie, and the City Commission has a lot of issues that it needs to consider. He was very supportive of HyVee coming to the community and wished the city could find a different location for them, although that is not what the Board was there to discuss. He expressed concern about the outdoor sales area, agreeing that it is visual pollution. He said other businesses like Home Depot and Lowe's have figured out that putting it in the parking lot probably decreases sales. He suggested the proposal to locate it between the buildings at least temporarily and possibly permanently, would increase sales, and leaving it there permanently would help the overall development and would help Dial on Lot 12. He said if HyVee left the outdoor sales in that location, then everybody wins. Hill also recommended that they look at more landscaping along 4th Street. He said for him, the Board would need to work through the six conditions of approval and work on the outside sales area, but in general he is supportive of the project.

Kratochvil indicated he could not support the amendment and that Reynard and Ham made some good points. Kratochvil said the original PUD was for a 68,000 square foot building and now it is up to 78,000+ and potentially 93,000, and it's starting to go into the area that was for housing along 4th Street, making it very tight in that area. Regarding truck traffic, he said there will be traffic with anything. He thought it was great that HyVee wants to come to Manhattan, it's just that six weeks ago we tried to put a square peg in round hole and now we are trying to put an octagon peg in a round hole and we are getting close. The extra 10,000 square feet, plus or minus, is just crowding the northwest corner. He thought the concerns about issues west of 4th Street will get corrected, once that street is improved. He said the original PUD has been approved, and while 10,000 square feet might not be much to some people, he sees it as jamming up the northwest corner of the development. He said Dial has a

plan that could work, with an adjustment in the square footage of the building in order to have a good green space on 4th Street for the residential properties. If there is a good green space between the screening wall and the rear truck area, that will make everyone happy. He said he is concerned about the neighborhood, but he is very concerned about the rest of the project. He said so far, Dial has done what was asked by city staff, the Planning Board and City Commission and was close to making the development happen, but not close enough for him to support the amendment. He said he can support the original PUD.

Rolley indicated she came to the meeting hoping to support the proposal and that a lot of work was done to address details and try to work out the specifics. She appreciated those efforts. However, she didn't think they are talking about types of tenants; they are talking about the function of the buildings. She said the Planning Board had addressed all the important points. By increasing the footprint of the building, it is squeezing too much on the site. She expressed concern about knowing the details of the interior of HyVee, but not knowing the details about the residential component, it's street trees, or the design of the buildings, that is going to make it a livable place for people. She said the Board needs to see that commitment to the residential component. She said she was starting to hear discussion that sounds like the residential is not compatible with the rest of the development, which is backwards. She said we need to have a mixed use development that is compatible and integrated across the board and that it could be achieved. She said there is an existing PUD that provides a site that functions in a way we want it to function in the community. The Board needs to see an improvement that results in a relative gain to the public health, safety, convenience, or general welfare and the Board is not seeing that improvement. She said unfortunately, she could not support the amendment.

Rolley asked the Board for a motion.

Kohlmeier moved that the Manhattan Urban Area Planning Board recommend approval of the proposed amendment of Manhattan Marketplace, Unit Two, a Commercial Planned Unit Development, and Ordinance No. 6544, based on the findings in the Staff Report, subject to the six conditions of approval recommended by City Administration.

Hill seconded the motion, which failed on a vote of 2-4, with Rolley, Reynard, Ham and Kratochvil voting against the motion.

Reynard moved that the Manhattan Urban Area Planning Board forward a recommendation of denial of the proposed amendment of Manhattan Marketplace, Unit Two, based on zoning standard number 6.

Ham seconded the motion. Reynard said he wanted it to go to the City Commission and that Manhattan is at a crossroads and we can go forward and do something really great, or we can muddy up the waters. He asked the Planning Board to send a unanimous vote of denial, because that tells the City Commission that it will have to

vote together and find a solution. If the Planning Board splits, then the City Commission doesn't have to have a unanimous vote and it could split. He said he wanted the City Commission to reach a unanimous decision based on something that is the best for the city.

On a vote, the motion passed 4-2, with Hill and Kohlmeier voting against the motion.

Hill said the Board had not given direction to the applicant as to what they need to come back with to the Planning Board to be successful. He said everyone wants it to be successful, but they have not provided enough direction. He said the Board has the responsibility to be clearer with the motion as to what needs to specifically be done, unless Dial doesn't want that.

Rolley said she didn't share that perspective that they haven't received specific information.

Hill suggested Dial answer that question.

Kiolbasa said it needs to move forward to the City Commission and that the C-4 zoning clearly allows what has been proposed. He said they are in substantial compliance with the Preliminary PUD and the difference is minimal. The uses fit in the zoning and a grocery is an allowed use. The truck traffic for a grocery doesn't matter, because it's C-4 zoning. He said it's not appropriate to deny his use for some of those ancillary uses. He said Dial intends to go forward and appreciates that it's a struggle for the Planning Board. He said there is a huge financial loss that Dial will suffer if it doesn't go forward. The City chose to not take on that responsibility, when it asked Dial to be responsible for those funds. He said there is a lot riding on the Board's decision and Dial will go forward. He said Dial understands some the Board's decisions and disagrees with others. The Board may not like the use of HyVee, but it's permitted and the contract with the City said they could have those uses in the development. He said to deny Dial of that, is a misuse of power.

Rolley indicated that Dial was not denied the uses and the way that had been stated was a misinterpretation of the comments from the Board.

3. REPORTS AND COMMENTS BY BOARD MEMBERS

Rolley asked if there were any reports or comments. There being none, Rolley closed the meeting.

Respectfully submitted,

Eric Cattell, Assistant Director for Planning