



MINUTES
CITY COMMISSION MEETING
TUESDAY, NOVEMBER 19, 2013
7:00 P.M.

The Regular Meeting of the City Commission was held at 7:00 p.m. in the City Commission Room. Mayor John E. Matta and Commissioners Wynn Butler, Karen McCulloh, Usha Reddi, and Richard B. Jankovich were present. Also present were the City Manager Ron R. Fehr, Deputy City Manager Jason Hilgers, Assistant City Manager Adam Bentley, City Attorney Bill Raymond, City Clerk Gary S. Fees, 9 staff, and approximately 45 interested citizens.

PLEDGE OF ALLEGIANCE

Mayor Matta led the Commission in the Pledge of Allegiance.

PROCLAMATIONS

Mayor Matta proclaimed November 30, 2013, ***Small Business Saturday***. Patrick Lee, Chair, Manhattan Area Chamber of Commerce Small Business Council, and other small business members of the Council were present to receive the proclamation.

Mayor Matta proclaimed December 1-7, 2013, ***Manhattan HIV/AIDS Awareness Week***. Mike Herman, Flint Hills Human Rights Project; Kevin Stilley, Flint Hills Pride & Junction City Teddy Bears; and Kelly Williamson, HIV/AIDS Case Manager, Riley County Health Department, were present to receive the proclamation.

COMMISSIONER COMMENTS

Commissioner Reddi informed the community that she and Deputy City Manager Jason Hilgers attended the National League of Cities Conference last week in Seattle, Washington, and highlighted several of the topics discussed at the Conference. She expressed her appreciation to the Riley County Police Department for providing training at the Ogden Elementary School yesterday for a lockdown practice for students and teachers. She also encouraged citizens to shop locally on Saturday, November 30, 2013, and to shop locally to keep the money in the community versus being spent elsewhere.

COMMISSIONER COMMENTS (*CONTINUED*)

Commissioner McCulloh gave a shout out to the shop local Saturday campaign. She expressed her appreciation to the local businesses that are asked for support when raising money and for silent auction items. She stated there are many wonderful shopping opportunities in Manhattan and encouraged everyone to shop locally, especially the Saturday after Thanksgiving.

CONSENT AGENDA

(* denotes those items discussed)

MINUTES

The Commission approved the minutes of the Regular City Commission Meeting held Tuesday, November 5, 2013.

CLAIMS REGISTER NO. 2744

The Commission approved Claims Register No. 2744 authorizing and approving the payment of claims from October 30, 2013, to November 12, 2013, in the amount of \$2,650,438.79.

LICENSES

The Commission approved a Merchant Guard Agency License for calendar year 2014 for G4S Secure Solutions (USA) Inc., 1100 Main Street, Suite 1340, Kansas City, Missouri; a Tree Maintenance License for calendar year 2014 for Blueville Nursery, Inc., 4539 Anderson Avenue; Randy's Tree Service, 110 Castle Street, Junction City, Kansas; and Salina Tree, Inc., 2681 West State Street Road, Salina, Kansas; an annual Cereal Malt Beverages Off-Premises License for Dillons #15, 130 Sarber Lane; Shop Quik #11, 3108 Anderson Avenue; Shop Quik #12, 430 Fort Riley Boulevard; Shop Quik #14, 529 Richards Drive; and Shop Quik #16, 1127 Bluemont Avenue; and an annual Cereal Malt Beverages On-Premises License for K-State Student Union Recreation, 908 K-State Student Union; Tuttle Creek Pizza Hut, 1005 Hostetler Drive; and Westloop Pizza Hut, 2931 Claflin Road.

ORDINANCE NO. 7049 – AMEND FINAL DEVELOPMENT PLAN – STONE POINTE TOWNHOMES, UNIT ONE, RESIDENTIAL PUD

The Commission approved Ordinance No. 7049 amending a portion of the Final Development Plan of Tract Z, Stone Pointe Townhomes, Unit One, Residential PUD, and Ordinance No. 6693, as proposed, generally located 485 feet south of

CONSENT AGENDA (CONTINUED)

ORDINANCE NO. 7049 – AMEND FINAL DEVELOPMENT PLAN – STONE POINTE TOWNHOMES, UNIT ONE, RESIDENTIAL PUD (CONTINUED)

the intersection of Stone Crest Drive and North Scenic Drive, to be known as Birchwood Villas, Residential PUD, based on the findings in the Staff Report (*see Attachment No. 1*), with the five conditions recommended by the Manhattan Urban Area Planning Board.

FINAL PLAT – BIRCHWOOD VILLAS ADDITION, RESIDENTIAL PLANNED UNIT DEVELOPMENT

The Commission accepted the easements and rights-of-way, as shown on the Final Plat of Birchwood Villas Addition, Residential Planned Unit Development, generally located 485 feet south of the intersection of Stone Crest Drive and North Scenic Drive, based on conformance with the Manhattan Urban Area Subdivision Regulations.

* **RESOLUTION NO. 111913-B – ISSUE – TEMPORARY NOTE SERIES NO.
2013-06**

Commissioner Jankovich announced that he had a conflict of interest on Item F.1. and would be abstaining on the item due to his employment with Commerce Bank.

Commissioner Butler voiced concerns with the City debt and stated that a majority of items have designated revenue streams, with the exception of the Flint Hills Discovery Center exhibit. He asked that the Commission consider future budgets to fund this item with a dedicated revenue stream, such as the Convention and Visitors Bureau budget or another revenue stream so that it does not add to the property tax burden.

Ron Fehr, City Manager, and Bernie Hayen, Finance Director, responded to questions from the Commission and provided clarification on the item.

The Commission approved accepting the best bid for selling the notes to Commerce Bank, of Kansas City, Missouri, and approved Resolution No. 111913-B issuing Temporary Note Series No. 2013-06 in the amount of \$6,590,000.00 to finance: *Candlewood Parking, Lot 4 – Sanitary Sewer (SS1205), Street (ST1208), and Water (WA1206); Congressional Addition – Sanitary Sewer (SS1309), Street (ST1311), and Water (WA1310); K-State Research Park, Phase Two – Sanitary Sewer (SS1310), Street (ST1312), and Water (WA1311); Lee Mill Heights, Units Four and Five – Sanitary Sewer (SS1313), Street (ST1317), and*

CONSENT AGENDA (CONTINUED)

* **RESOLUTION NO. 111913-B – ISSUE – TEMPORARY NOTE SERIES NO. 2013-06 (CONTINUED)**

Water (WA1315); Northlake Addition, Unit One – Sanitary Sewer (SS1311), Street (ST1314), and Water (WA1313); Scenic Meadows, Unit Three, Phase Two – Street (ST1006) and Stormwater (SM1303); Lot 5, Downtown Entertainment District, Unit Three – Street (ST1212); Downtown (South End) – Parking Garage (PG0901); and Old Big Blue Beautification Project, Phases 3 and 4 (SM1106).

RESOLUTION NO. 111913-C – ISSUE – TEMPORARY NOTE SERIES NO. 2013-07

The Commission approved accepting the best bid for selling the notes to Hutchinson, Shockey, Erley & Co., of Chicago, Illinois, and approved Resolution No. 111913-C issuing Temporary Note Series No. 2013-07 in the amount of \$3,160,000.00 to finance the *Airport Terminal Building, Phase I, Construction (AP040P)*.

RESOLUTION NO. 111913-D – ISSUE – TEMPORARY NOTE SERIES NO. 2013-08

The Commission approved accepting the best bid for selling the notes to UBS Financial Services, Inc., of New York, New York, and approved Resolution No. 111913-D issuing Temporary Note Series No. 2013-08 in the amount of \$4,845,000.00 to finance the *Downtown (South End) Conference Center (CC0901)*.

ORDINANCE NO. 7050 – ISSUE – GENERAL OBLIGATION BOND SERIES 2013-A

The Commission approved accepting the best bid for selling the bonds to BOSC, Inc., of Dallas, Texas, and approved Ordinance No. 7050 issuing \$6,590,000.00 in general obligation bonds (Series 2013-A) to finance three (3) special assessment projects – *McCall Road Expansion Street and Stormwater (ST0821), Shuss Road (ST1111), and Claflin Road and Seth Child Road (Beechwood Terrace) Intersection (ST1015)* – and two (2) capital improvement projects – *Flint Hills Discovery Center Exhibitory (DC0902) and Miller Parkway Water Main (WA0622)*.

RESOLUTION NO. 111913-A – DELIVERY – GENERAL OBLIGATION BOND SERIES NO. 2013-A

The Commission approved Resolution No. 111913-A authorizing delivery of the general obligation bonds Series 2013-A bonds to the low bidder, UBS Financial Services, Inc., of New York, New York.

CONSENT AGENDA (CONTINUED)

ORDINANCE NO. 7051 – AMEND – WATER RATES AND INSTALLATION CHARGES

The Commission approved Ordinance No. 7051 amending applicable sections of Chapter 32 of the Code of Ordinances to increase water rates and installation charges as recommended, effective January 1, 2014.

ORDINANCE NO. 7052 – AMEND PRELIMINARY DEVELOPMENT PLAN – LOT 3, MCCALL LANDING COMMERCIAL PUD

The Commission approved Ordinance No. 7052 amending Ordinance No. 6745 and the Preliminary Development Plan of Lot 3, McCall Landing Commercial Planned Unit Development, generally located northwest of the intersection of McCall Road and Carlson Place, to be known as the Final Development Plan of Lot 3, McCall Landing Commercial Planned Unit Development, based on the findings in the Staff Report (*see Attachment No. 2*), with the two conditions of approval recommended by the Planning Board.

RESOLUTION NO. 111913-E – INVESTMENT POLICY

The Commission approved Resolution No. 111913-E re-affirming expanded investment powers for the City of Manhattan based on final approval from the Pooled Money Investment Board.

* **RESOLUTION NO. 111913-F – SUPPORT HOUSING TAX CREDIT – STONE POINTE TOWNHOMES ADDITION**

Commissioner McCulloh stated that she was on the Manhattan Area Housing Partnership Board and would abstain on the item.

The Commission approved Resolution No. 111913-F indicating the City of Manhattan's support for the Manhattan Area Housing Partnership, to apply for tax credits from the State of Kansas, for an affordable housing development in Stone Pointe Townhomes Addition.

CHANGE ORDER NO. 2 – WESTERN INTERCEPTOR RELIEF SEWER (SS0913, WA1212)

The Commission approved Change Order No. 2 for the Western Interceptor Sewer Relief System (SS0913, WA1212), resulting in a net increase in the amount of \$203,000.00 (+4.67%) to the contract with S.J. Lewis Construction, Inc., of Rockville, Minnesota, for the additional forcemain relocation project quantities.

CONSENT AGENDA (CONTINUED)

CHANGE ORDER NO. 3 – TERMINAL EXPANSION, PHASE I (AIP 44)

The Commission approved Change Order No. 3 for temporary parking facilities in conjunction with Phase One of the Terminal Expansion Project (AIP 44) at Manhattan Regional Airport resulting in a net increase in the amount of \$20,608.00 to the contract with The Weitz Company, LLC, of Lenexa, Kansas, for providing temporary customer parking.

AGREEMENT – ENGINEERING SERVICES – POYNTZ AVENUE PUMP STATION REINFORCED CONCRETE BOX (SM1309)

The Commission authorized City Administration to finalize and the Mayor and City Clerk to execute a contract in the amount of \$99,905.50 with AMEC Environment and Infrastructure, Inc., of Topeka, Kansas, for design services for the Poyntz Avenue Pump Station Reinforced Concrete Box (SM1309).

*

AWARD CONTRACT – NATIONAL BIO AND AGRO DEFENSE FACILITY – SANITARY SEWER IMPROVEMENTS (SS1116)

Ron Fehr, City Manager, responded to questions from the Commission and provided clarification on the item.

The Commission accepted the Engineer's Opinion of Probable Cost in the amount of \$678,502.00; awarded a construction contract in the amount of \$305,724.00 with Middlecreek Corporation, of Peabody, Kansas; and authorized the Mayor and City Clerk to execute the contract National Bio and Agro Defense Facility Sanitary Sewer Project (SS1116).

AWARD CONTRACT – COLLEGE AVENUE AND KIMBALL AVENUE – STORMWATER IMPROVEMENTS (SM1304)

The Commission accepted the Engineer's Opinion of Probable Cost in the amount of \$193,935.00; awarded a construction contract in the amount of \$197,750.00 to J & K Contracting, of Junction City, Kansas; and authorized the Mayor and City Clerk to execute the contract for College Avenue and Kimball Avenue Stormwater Improvements (SM1304).

AWARD CONTRACT – WATER TREATMENT PLANT HVAC (WA1318, CIP #WA112E)

The Commission accepted the Engineer's Opinion of Probable Cost in the amount of \$27,500.00; awarded a contract in the amount of \$28,450.00 to Central Mechanical Construction, of Manhattan, Kansas; and authorized the Mayor and City Clerk to execute the contract Water Treatment Plant Heating/Ventilation/Air Conditioner Handling Unit Replacement (WA1318, CIP #WA112E).

CONSENT AGENDA (CONTINUED)

CONTRACT - CONCESSIONS

The Commission approved and authorized the Mayor to execute a concessions contract for various Parks and Recreation venues with Streeter Enterprises, LLC, of Manhattan, Kansas, for a term of one (1) calendar year, with the option of renewal for four (4) additional years.

AGREEMENT – MANHATTAN URBAN AREA COMPREHENSIVE PLAN UPDATE

The Commission authorized City Administration to finalize and the Mayor and City Clerk to execute agreements with Clarion and Associates, the Riley County Commission, and the Pottawatomie County Commission for an update of the Manhattan Urban Area Comprehensive Plan and related projects.

BOARD APPOINTMENTS

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

Arts and Humanities Advisory Board

Appointment of Shelly Richardson, 1719 Leavenworth Street, Apt. B, to fill the unexpired term of Derek Hoff. Ms. Richardson's term begins immediately and will expire March 31, 2015.

Social Services Advisory Board

Appointment of Michael Gassmann, 3438 Woodduck Way, to a three-year term. Mr. Gassmann's term begins immediately, and will expire June 30, 2016.

After discussion and comments from the Commission, Commissioner Jankovich moved to approve the consent agenda. Commissioner McCulloh seconded the motion. On a roll call vote, motion carried 5-0, with the exception of Item F.1., RESOLUTION NO. 111913-B – ISSUE – TEMPORARY NOTE SERIES NO. 2013-06, which carried 4-0-1, with Commissioner Jankovich abstaining on the item; and, with the exception of Item K, RESOLUTION NO. 111913-F – SUPPORT HOUSING TAX CREDIT – STONE POINTE TOWNHOMES ADDITION, which carried 4-0-1, with Commissioner McCulloh abstaining on the item.

GENERAL AGENDA

KANSAS STATE UNIVERSITY MASTER PLAN UPDATE

Kirk Schulz, President, Kansas State University, presented an overview of opportunities for K-State; enrollment numbers for fall 2013; deferred maintenance challenges; an overview of the proposed south, northwest, and northeast campus core areas; pending upgrades to the academic core; the research corridor concept; a corridor focused on global food system needs and food systems capabilities; and facility investment in the past ten years in the research corridor. He also discussed the next steps for the University and responded to questions from the Commission.

After further comments and discussion of the Commission, the Commission expressed their appreciation to President Schulz for his update, work, and long-range vision for K-State. The Commission asked that the communication and collaboration between the University and the City continue, especially with the ongoing work with the University Master Plan and with the upcoming development of the Manhattan Urban Area Comprehensive Plan Update.

Ron Fehr, City Manager, thanked President Schulz for the partnership that has been established and the opportunity to work with University staff on a regular basis. He also stressed the importance to leverage our strengths collaboratively on economic development opportunities and infrastructure improvement projects.

Kirk Schulz, President, Kansas State University, responded to additional comments from the Commission regarding the City/University Fund, infrastructure opportunities and expressed the importance to provide a high-quality of life to attract people to K-State.

This was a discussion item only and no formal action was taken.

AWARD CONTRACT – MANHATTAN PUBLIC LIBRARY EXPANSION OF THE CHILDREN’S LIBRARY (SP1301); RESOLUTION NO. 111913-G – ISSUE – TEMPORARY NOTES

Jason Hilgers, Deputy City Manager, presented background information and an overview of the proposed Manhattan Public Library expansion project, financing considerations, and the Construction Observation Agreement with Bowman, Bowman, Novick.

After comments and discussion of the Commission, Jason Hilgers, Deputy City Manager, responded to questions regarding the project, financing the project with temporary notes, contingency considerations, potential revenue streams, and discussed the current agreement with the Manhattan Public Library.

Mayor Matta stated that he liked how the numbers were coming out, but wanted to look at economic development funds to take pressure off the mill levy.

GENERAL AGENDA (CONTINUED)

AWARD CONTRACT – MANHATTAN PUBLIC LIBRARY EXPANSION OF THE CHILDREN’S LIBRARY (SP1301); RESOLUTION NO. 111913-G – ISSUE – TEMPORARY NOTES (CONTINUED)

Commissioner Butler voiced concern with expanding the library and adding to the City debt. He also wanted consideration given for the ability to use economic development funds for the last five years to keep the Library under 6 mills and, in case there is a deficit, to take the pressure off the taxpayers.

Commissioner Jankovich talked about the original proposal, the amount of cash coming into the project, and noted the lowest bid received was under the estimate. He also discussed alternative funding scenarios that were explored. He said that he liked the idea of potential alternate funding sources if needed; however, stated that there is 10 years of economic development funds and 12 years of project financing.

Commissioner Reddi reiterated that project is receiving \$800,000 from private funds and the project came in below the estimate. She stated the public has bought into the Library expansion and understood that this was a constant topic during the election forums. She said the residents want the Library expansion. She voiced support of the expansion and wanted to keep the finances low, and at the same time, to keep the quality of life high.

Commissioner McCulloh said President Schulz mentioned the importance of quality of life to bring people to the community. She stated that the property taxes are not out of line with other university communities. She said that if future Commissions want to use economic development funds in the future, so be it. She stated that this Commission should not tie future Commissions and that now is the time to approve the item.

After additional discussion and comments from the Commission, Jason Hilgers, Deputy City Manager, and Ron Fehr, City Manager, responded to questions and concerns expressed by the Commission regarding alternatives regarding the Library’s budget and the potential use of future economic development funds, if needed. They also provided alternatives for the Commission to consider regarding the item and considerations for future Commissions.

Jason Hilgers, Deputy City Manager, informed the Commission that a similar example would be the Manhattan Conference Center, which the City set aside \$1.5 million in 2006 in the Economic Development Fund. He stated that the Commission will decide next summer what to do with these funds and if this amount should be applied toward reducing the principle retirement on the bond issue. He said there is nothing to prohibit the City from creating a line item or the Library, and to allow a future commission to know the funds are there if needed, and how those funds can be used.

GENERAL AGENDA (CONTINUED)

AWARD CONTRACT – MANHATTAN PUBLIC LIBRARY EXPANSION OF THE CHILDREN’S LIBRARY (SP1301); RESOLUTION NO. 111913-G – ISSUE – TEMPORARY NOTES (CONTINUED)

After additional comments and discussion of the Commission, Ron Fehr, City Manager, responded to additional questions from the Commission and provided clarification. He stated that if the intent of the Commission is to set aside economic development funds for this project, he recommended that the Commission wait to do that after the Library construction is completed and then talk about developing a budget to convert those temporary notes to permanent bonds.

Tanniqua-Kay Buchanan, 1405 Hartman Place, Apartment 6, student at K-State University, informed the Commission that with an expected increase in Manhattan’s population it is a good idea to expand the Manhattan Public Library and that it is needed to help better educate the children of Manhattan.

After discussion, Commissioner McCulloh moved to approve the Architect’s Opinion of Probable Cost in the amount of \$1,875,000.00; award a construction contract to Kelley Construction; authorize the Mayor and City Clerk to execute the construction contract with Kelley Construction, of Topeka, Kansas, in the amount of \$1,490,950.00; approve Resolution No. 111913-G authorizing the issuance of temporary notes to finance the improvement; and approve a Construction Observation Agreement in the amount up to a maximum of \$47,000.00 with Bowman, Bowman, Novick, of Manhattan, Kansas, for the expansion of the Manhattan Public Library for the Children’s Library (SP1301). Commissioner Reddi seconded the motion.

Ron Fehr, City Manager, provided clarification on the item and stated that construction would be completed in about one year.

After additional discussion, on a roll call vote, motion carried 5-0.

FIRST READING – AMEND FINAL DEVELOPMENT PLAN -LOT 3, DOWNTOWN ENTERTAINMENT DISTRICT, UNIT THREE, COMMERCIAL PLANNED UNIT DEVELOPMENT (PUD)

Eric Cattell, Assistant Director for Planning, presented an overview of the item and slides of the proposed sign. He then responded to questions from the Commission regarding the sign being proposed and current lighted signage at K-State and on Scenic Drive.

GENERAL AGENDA (CONTINUED)

FIRST READING – AMEND FINAL DEVELOPMENT PLAN -LOT 3, DOWNTOWN ENTERTAINMENT DISTRICT, UNIT THREE, COMMERCIAL PLANNED UNIT DEVELOPMENT (PUD) (CONTINUED)

After discussion, Commissioner Jankovich moved to approve first reading of an ordinance amending Ordinance No. 6936 and the Final Development Plan of Lot 3, Downtown Entertainment District, Unit Three, Commercial Planned Unit Development, generally located north of Fort Riley Boulevard and east of the intersection of South 3rd Street and Blue Earth Place, for the proposed projecting sign, based on the findings in the Staff Report (*see Attachment No. 3*) and the additional findings of the Planning Board, with the two conditions recommended by the Planning Board. Commissioner Butler seconded the motion. On a roll call vote, motion carried 5-0.

DISCUSSION - HIGHER STANDARD FLOODPLAIN REGULATION: COMPENSATORY STORAGE

Chad Bunger, Planner II, presented an overview of the Higher Standard Floodplain Regulation Concepts, highlighted proposed regulations, outlined the proposed development permit process, discussed cross sections of different fill areas and compensatory calculations, highlighted proposed exemptions, and discussed regulation analysis of 18 vacant unplatted tracts and 128 vacant platted lots in the City of Manhattan. He then responded to questions from the Commission regarding the proposed exemption status, options for new development, and the next steps in the process.

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

Chad Bunger, Planner II, responded to questions regarding property owner analysis, exemptions, and enforcement measures.

This was a discussion item only and no formal action was taken.

EXECUTIVE SESSION

At 9:00 p.m., Commissioner Jankovich moved to recess into Executive Session until 9:25 p.m. for the purpose of discussing matters that presently need to remain confidential, and are related to employer-employee negotiations between City Administration and Local 2275, International Association of Fire Fighters, the union representing certain members of the Manhattan Fire Department. Commissioner McCulloh seconded the motion. On a roll call vote, motion carried 5-0.

EXECUTIVE SESSION (*CONTINUED*)

At 9:25 p.m., the Commission reconvened with Mayor Matta and Commissioners Butler, McCulloh, Reddi, and Jankovich in attendance.

ADJOURNMENT

Commissioner Butler moved to adjourn. Commissioner Jankovich seconded the motion. On a roll call vote, motion carried 5-0.

At 9:25 p.m., the Commission adjourned.

Gary S. Fees, MMC, City Clerk

STAFF REPORT

REQUEST: The applicant and owner have requested an amendment of Ordinance No. 6693 and the approved Final Development Plan of Tract Z, Stone Pointe Townhomes Residential Planned Unit Development (PUD) to replace approved townhomes with a senior's residence apartment building. The amendment is in the form of a Final Development Plan. A separate Final Plat, Birchwood Villas Addition, divides Tract Z into two lots, proposed Lot 1 for the apartment building and proposed Lot 2 for a future amendment (see separate Final Plat staff memorandum).

The amendment is necessary because the approved 26-townhome dwelling units on Tract Z will be replaced with a proposed 48-dwelling unit apartment building. The amendment is a substantial modification of the approved PUD.

BACKGROUND

APPLICANT: The applicant is Jim Moore.

APPLICANT'S ADDRESS: 1730 E Republic Road, Suite F, Springfield, MO 65804.

OWNER: The owner is Stone Crest Land Co. LLC – Tim Schultz.

OWNER'S ADDRESS: Stone Crest land Co. LLC, 1213 Hylton Heights Rd., Manhattan, KS 66502

LEGAL DESCRIPTION: Tract Z, Stone Pointe Townhomes Addition, Unit One, in the City of Manhattan, Riley County, Kansas. A replat of Tract Z, separate application to Final Plat, will divide Tract Z. The future apartment building will be located on proposed Lot 1, Birchwood Villas Addition, a PUD.

LOCATION: The amendment site is generally east of N. Scenic Drive and approximately 485-feet south of the intersection of Stone Crest Drive and N. Scenic Drive.

AREA: The area of proposed Lot 1 is 145,374 square feet (3.337 acres).

DATE OF PUBLIC NOTICE PUBLICATION: Monday, September 16, 2013.

DATE OF PUBLIC HEARING: PLANNING BOARD: Originally scheduled for
Monday, October 7, 2013.
Public Hearing tabled to
Monday, October 21, 2013.

CITY COMMISSION: Tuesday, November 5, 2013.

EXISTING PUD

Ordinance

Ordinance No. 6693 was approved by the City Commission on April 15, 2008, which created Stone Pointe Townhomes Residential Planned Unit Development. The project history is described below.

Conditions of Approval

The conditions of approval set out in Ordinance No. 6693 include:

1. Permitted uses shall include ninety-six (96) residential townhome units.
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. Two ground entry signs and exempt signage described in Article VI, Section 6-104 (A)(1),(2),(4),(5),(7) and (8); and Section 6-104 (B)(1) and (2), of the Manhattan Zoning Regulations shall be permitted.
4. All landscaping and irrigation shall be maintained in good condition.
5. No parking shall be allowed along the entire length of the east side of the Stone Crest Way right-of-way driving lane and shall be appropriately signed as No Parking.

Current Zoning

The current zoning of Stone Pointe Townhomes is PUD, Residential Planned Unit Development District with AO, Airport Overlay District.

The Final Development Plan of the entire Stone Pointe Townhomes PUD was approved June 2, 2008. A total of 96-townhome units were approved with the Final Development Plan.

None of the 26 townhomes on existing Tract Z have been built.

PROPOSED AMENDMENT

The proposed PUD amendment will eliminate the 26-approved future townhomes from the Stone Pointe Residential PUD and replace the townhomes with a seniors' tax credit residence multiple-family residential apartment building. Other changes include off-street parking, signage, lighting, landscaping, and other improvements.

Attachment No. 1

The Manhattan City Commission approved Resolution No. 012213-A (attached) on January 22, 2103 in support of the proposed development. The applicant describes in an attached e-mail, dated October 14, 2013, the tax credit development. Generally, the development is an age and income qualifying target market for older adults, 55 and older, with an income at or below 60% of the Area Median Income. Other details are described in the e-mail attachment.

Proposed Buildings, Structures, and Phasing

Proposed Lot 1:

The proposed residential structure is a 3-story, 42-foot tall, 48-dwelling unit apartment building to be constructed with 24-units on either side of a 3-story common area. Each half of the apartment building consists of 4, 1- bedroom, and 4, 2-two bedroom dwellings, per floor, or 8, 1-bedroom and 8, 2-bedroom dwellings per floor, 16-total dwellings per floor. First floor dwellings have an outside patio with second and third floor dwellings having a balcony

Main floor common area is management space, vending, restrooms, kitchenette, elevator and stairwells. Second floor space is a community room, computer/game room, restrooms and access. The third floor is access, restrooms, and kitchenette. Walkways through the common areas connect each half of the apartment building.

The rear of building faces the east side of N. Scenic Drive with the front entrance facing east towards the off-street parking lot. Access is from the north off proposed Ledge Stone Drive.

Exterior materials include brick veneer, fiber cement lap siding, and asphalt roof shingles. Building colors are shown on color elevations in shades of tan, brown, white trim, and red and brown brick.

Forty-two inch black coated chain link fence is proposed along the edges of retaining walls in the southwestern corner of the parking area and along the eastern parking area, as required by Code due to the height of the retaining walls. A portion of the fence encroaches in the southern vision triangle but is sufficiently set back from the intersection and should not impede driver's sight lines along N. Scenic Drive.

Proposed Lot 2: Currently vacant and expected to be a future amendment of the balance of the Stone Pointe Townhomes PUD.

Phasing

The apartment building and all other improvements will be constructed in one phase and ready for pre-leasing in 4th Quarter, 2014.

PROPOSED SIGN: The proposed identification ground sign is approximately 32-square feet in area, externally illuminated, and approximately 6-feet tall, constructed of wood with wood support legs. The sign is currently shown in the proposed Ledge Stone Drive right-of-way, east of the entrance drive. The sign must be relocated onto Lot 1, prior to issuance of the sign permit.

Additional signs will include Exempt signs, which requirements are set out in Condition 3 above changed since approval of the PUD in 2008. Updated with this amendment are those exempt signs described in Article VI, Section 6-104 (A)(1),(2),(4),(5),and (7); and, Section 6-104 (B)(2) and B(5), of the Manhattan Zoning Regulations (attached).

PROPOSED LIGHTING: Full cut-off parking lot light poles are 18-feet in height. Building lights are also full-cut off to shield light from spilling onto adjacent properties and the public street.

**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 of the approved PUD is a multiple-family townhome development. The amendment preserves its multi-family character. The amendment is consistent with the intent and purpose of the approved PUD, which may be a mix of owner occupied and rental attached townhome units in groups of four or six townhomes. The amendment will benefit and provide affordable new housing for seniors based on age and income. The site lends itself to a single building construction rather than townhome construction.

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 change from 26-townhomes to an apartment building requires an amendment of the PUD. Additionally, the amendment is necessary due to changing housing market conditions and the opportunity to provide affordable housing for a target income and age qualifying population.

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: No special benefit is conferred upon an individual. The amendment creates an opportunity, and a relative gain to the public, to provide affordable housing to serve a market demand which benefits the public for persons 55 and over with an income at or below 60% of the Area Median Income.

ADDITIONAL MATTERS TO BE CONSIDERED WHEN AMENDING A PLANNED UNIT DEVELOPMENT

1. LANDSCAPING: Landscaping consists of shade, ornamental and evergreen trees, and irrigated turf around the building to be maintained by underground irrigation. Areas outside the lawn will remain native grass, generally the slopes on the northern and eastern side of Lot 1.

2. SCREENING: Other structures include 2, 6-foot 2-inch trash enclosures constructed with cedar walls and located at the north and south ends of the parking lot, but are partially open. The northern enclosure is partially in a utility easement and should be relocated out of the easement, prior to issuance of a building permit.

3. DRAINAGE: The applicant's consultant, Schwab Eaton, submitted a drainage summary (attached), dated August 2, 2013, based on a previous drainage study for Independence Place, and the Birchwood Villas and Ledge Stone areas. The amendment site will drain to an existing detention basin constructed as a part of Independence Place PUD. The consultant's analysis indicates an insignificant impact on the storm water detention system.

The Public Works Department's memo dated October 14, 2013, (attached) states, "The engineering consultant Schwab and Eaton developed a Stormwater Drainage Report for the Ledge Stone Addition on August 2, 2013. The report encompasses the drainage analysis for Birchwood Villas, Ledge Stone Addition, and Independence place. There is a localized drainage detention basin that will meet the city of Manhattan's detention requirements for Birchwood Villas, Independence Place PUD, and Ledge Stone Addition. There will be no increased runoff rates due to the proposed development. The pre-development runoff rates will be equal to or less than the post-development runoff rates.

City Staff accepts the drainage report provided by Schwab and Eaton Consultants."

4. CIRCULATION:

Public Access. Vehicle access to the site's off-street parking lot will be from proposed Ledge Stone Drive, which will be dedicated with the Ledge Stone Addition to the south. Vehicle access off N. Scenic Drive onto proposed Lot 1 will be prohibited. Ledge Stone street access is dependent on approval of the Final Plat of ledge Stone Addition. Internal sidewalks connect the apartment entrance and parking lot to public sidewalk proposed on the east side of N. Scenic Drive and on one side of Ledge Stone Drive. The proposed sidewalk along N. Scenic Drive will connect to an internal sidewalk in Stone Pointe Townhomes PUD and public sidewalk for access to the north, to locations such as the bridge crossing to Anneberg Park.

Traffic. The applicant's consultant, Schwab Eaton, submitted a letter dated August 2, 2013, which compares the original traffic report for the 26-townhome units compared to the proposed seniors' apartment. Peak trips should decline and at off hours than would be expected with the townhomes.

The Public Works Department's memo dated October 14, 2013, (attached) states, "The Birchwood Villas PUD was originally a smaller part of the Stone Pointe Townhomes complex. This smaller section had been designed to have its own separate driveway onto Scenic Drive, all of which had previously been approved as part of the Stone Pointe Townhomes development. This new modification to an "Senior Adult Housing" complex will reduce the number of trips that would be generated from this particular section, compared to its former proposed use for townhomes.

In addition to a reduction in the trip generation of the site, the access location onto Scenic Drive was moved south to connect to the proposed Ledge Stone Drive, which will intersect Scenic Drive. A separate review of the Ledge Stone Drive intersection, its sight distance, level of service, and lane configuration is included in the Ledge Stone Addition memo to Chad Bunger, dated October 14, 2013.

Staff accepts the traffic impact report for the Birchwood Villas PUD without exception."

Off-Street Parking. Using the Manhattan Zoning Regulations parking ratios for 1-bedroom units (2-parking spaces per unit) and 2-bedroom units (3-parking spaces per unit), the 48-unit apartment building would be required to provide a minimum of 120-parking spaces. Seventy-eight off-street parking spaces are proposed.

The ratios for one and two-bedroom units are generally oriented for occupancy of unrelated tenants. Residential PUDs and other apartment buildings approved by the Board of Zoning Appeals have used parking ratios based on bedroom count rather than the Zoning Regulation's ratios. Birchwood Villas has a combined bedroom count of 72-

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bedrooms with a surplus of 6-parking spaces for guests or management, assuming every tenant has a car. In addition, the proposed complex is a seniors' income and age qualifying development and will have on-site management. The demand for individual parking spaces may be less for a seniors' occupancy than family oriented or market rate occupancy.

Based on 78-parking spaces, 1.6-parking spaces will be provided per dwelling unit. The proposed 78-parking spaces are reasonable to serve the proposed affordable seniors' housing market. The proposed number of parking spaces should also accommodate management personnel, guests, and tenants.

5. OPEN SPACE/LANDSCAPED AND COMMON AREA: Proposed Lot 1 will have approximately 83,591 square feet of open green area consisting of proposed landscaped space and native area, which will be maintained by the developer, Birchwood Villas, LP.

6. CHARACTER OF THE NEIGHBORHOOD: The general neighborhood is characterized as a developing growth corridor in the southwest corner of the City with single-family, two-family and multiple-family residential development, rural Riley County residential and open range land, and the proposed Ledge Stone Addition, a C-2, Neighborhood Shopping District. Highland Meadows is to the northwest and includes single-family, two-family, and multiple-family residential development. Scenic Woods' apartments are under construction to the north. East of the amendment site is an undeveloped part of Stone Pointe Townhomes PUD, expected to redevelop by PUD amendment, and future Independence Place PUD apartments. Development occurring in the Lee Mill Heights and Miller Ranch areas further to the east will continue to grow westward towards N. Scenic Drive. The Miller Parkway connection to N. Scenic Drive from Lee Mill Heights and Miller Ranch will accommodate future access to other parts of the City for development occurring in the Scenic Drive corridor and Lee Mill Heights and Miller Ranch neighborhoods.

MATTERS TO BE CONSIDERED WHEN REZONING

1. EXISTING USE: The use of the amendment site is a vacant tract of land approved site for 26-townhomes, and internal driving aisles with one curb cut onto N. Scenic Drive.

2. PHYSICAL AND ENVIRONMENTAL CHARACTERISTICS: The natural condition of the site is prairie with field grasses and scattered trees. The site slopes and drains to the north and northeast.

3. SURROUNDING LAND USE AND ZONING:

(a.) NORTH: Stone Pointe townhomes; Residential PUD.

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(b.) SOUTH: Proposed Ledge Stone Addition; C-2 District.

(c.) EAST: Future amendment in Stone Pointe Townhomes PUD and Independence Place apartments; Residential PUD.

(d.) WEST: N. Scenic Drive, open range land, scattered low density residential; Riley County G-1, General Agriculture District.

4. GENERAL NEIGHBORHOOD CHARACTER: See above under **6, CHARACTER OF THE NEIGHBORHOOD.**

5. SUITABILITY OF SITE FOR USES UNDER CURRENT ZONING: The amendment site is suitable for the approved 26-townhomes and common area.

6. COMPATIBILITY OF PROPOSED DISTRICT WITH NEARBY PROPERTIES AND EXTENT TO WHICH IT MAY HAVE DETRIMENTAL AFFECTS: The proposed amendment is at the southern end of a multiple-family townhome and apartment building setting along N. Scenic Drive and west of an approved multiple family apartment development, Independence Place PUD. To the north of Stone Pointe townhomes are Scenic Woods apartments, which are under construction, and Stone Pointe apartments further to the north. Highland Ridge apartments, which have an affordable housing component, are to the northwest and west of N. Scenic Drive. The proposed development is close to and easily accessed from N. Scenic Drive, a major north south street. Any expected changes in light, noise, and traffic are not unlike what would exist with the approved 26-townhomes. A future commercial neighborhood shopping area is to south and no adverse impact is expected from a senior's apartment development.

7. CONFORMANCE WITH COMPREHENSIVE PLAN: THE AMENDMENT SITE IS SHOWN ON THE FUTURE LAND USE MAP IN THE SOUTHWEST PLANNING AREA AS A COMBINATION OF RESIDENTIAL MEDIUM HIGH DENSITY (RMH), AND PRESERVED OPEN SPACE. THE SITE IS ALSO LOCATED IN THE MILLER RANCH SPECIAL PLANNING AREA AND IS IN THE CONICAL ZONE OF THE MANHATTAN REGIONAL AIRPORT. THE AO, AIRPORT OVERLAY DISTRICT WILL BE ADDED AS AN OVERLAY DISTRICT TO THE SPECIFIC PORTIONS OF STONE POINTE ADDITION THAT ARE AFFECTED BY THE CONICAL ZONE.

Residential designations: Densities within a Residential Medium/High neighborhood range from 11 to 19 dwelling units per net acre. Appropriate housing types may include a combination of small lot single-family, duplexes, townhomes, or four-plexes on individual lots. However, under a planned unit development concept, or when subject to design and site plan standards (design review process), larger apartment or condominium buildings may be permissible as well, provided the density range is complied with.

Other applicable policies to The Miller Ranch Special Planning Area include:

MR 5: Views from Scenic Drive

Development, including signage, should be set back from Scenic Drive to protect views and existing vegetation. The master plan for Miller Ranch should incorporate a buffer zone or overlay area along Scenic Drive designed to protect views, existing vegetation, and other important attributes of the area's scenic quality. Development of a neighborhood center, as described in MR 4, should occur east of the Scenic Drive buffer or overlay and be sited in a manner that minimizes visual impact on the Scenic Drive Corridor.

MR 7: Airport Airspace Regulations

Development shall be consistent with established airspace regulations for the Manhattan Regional Airport and the Airport Master Plan.

THE ORIGINAL DEVELOPER OF STONE POINTE TOWNHOMES PUD FILED A RESTRICTIVE COVENANT WITH STONE POINTE ADDITION, UNIT TWO, IN 2006, WHICH LIMITS NET DENSITY TO NO MORE THAN 19 DWELLING UNITS PER NET ACRE, WHICH IS THE UPPER LIMIT OF THE RMH CATEGORY. THE NET DENSITY OF THE APPROVED STONE POINTE TOWNHOMES IS 7.66 DWELLING UNITS PER NET ACRE. THE PROPOSED DENSITY OF BIRCHWOOD VILLAS PUD IS 14.4 DWELLING UNITS PER ACRE. THE PROPOSED AMENDMENT CONFORMS TO THE COMPREHENSIVE PLAN.

8. ZONING HISTORY AND LENGTH OF TIME VACANT AS ZONED: The amendment site has remained vacant to date.

July 17, 2006 Manhattan Urban Area Planning Board recommends approval of annexation and rezoning of the Stone Pointe Addition, Unit Two, from G-1, General Agricultural District, to R, Single-Family Residential District with AO, Airport Overlay District; and R-3, Multiple-Family Residential District with AO, Airport Overlay District; and C-2, Neighborhood Shopping District with AO, Airport Overlay District.

August 15, 2006 City Commission approves first reading of annexation and rezoning to R, Single-Family Residential District with AO, Airport Overlay District; and R-3, Multiple-Family Residential District with AO, Airport Overlay District; and C-2, Neighborhood Shopping District with AO, Airport Overlay District.

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- September 5, 2006 City Commission approves Ordinance Nos. 6564 and 6564 annexing and rezoning Stone Pointe Unit Two, to R, Single-Family Residential District with AO, Airport Overlay District; and R-3, Multiple-Family Residential District with AO, Airport Overlay District; and C-2, Neighborhood Shopping District with AO, Airport Overlay District.
- November 6, 2006 Manhattan Urban Area Planning Board approves Preliminary Plat of Stone Pointe Addition, Unit Two.
- December 19, 2006 Manhattan Urban Area Planning Board approves Final Plat of Stone Pointe Addition, Unit Two.
- January 9, 2007 City Commission accepts easements and right-of-way as shown on the Final Plat of Stone Pointe Addition, Unit Two.
- March 17, 2008 Manhattan Urban Area Planning Board recommends approval of the rezoning of the Stone Pointe Townhomes PUD, from R-3, Multiple-Family Residential District with AO, Airport Overlay District, to PUD, Residential Planned Unit Development District with AO, Airport Overlay District.
- April 1, 2008 City Commission approves first reading of the rezoning of the Stone Pointe Townhomes PUD, from R-3, Multiple-Family Residential District with AO, Airport Overlay District, to PUD, Residential Planned Unit Development District with AO, Airport Overlay District.
- April 15, 2008 City Commission approves Ordinance No. 6693 rezoning Stone Pointe Townhomes PUD, from R-3, Multiple-Family Residential District with AO, Airport Overlay District, to PUD, Residential Planned Unit Development District with AO, Airport Overlay District.
- June 2, 2008 Manhattan Urban Area Planning Board approves the Final Plat and the Final Development Plan of the Stone Pointe Townhomes Residential Planned Unit Development.
- June 17, 2008 City Commission accepts easements and right-of-way as shown on the Final Plat of Stone Pointe Residential Townhomes Planned Unit Development.

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- September 6, 2012 Manhattan Urban Area Planning Board recommends approval of an amendment of Ordinance No. 693 and the Final Development Plan of Lot 1 and Tract E, Stone Pointe Townhomes, Unit Three, Residential PUD, and approves the Final Plat of Stone Pointe Townhomes, Unit Three, Residential Planned Unit Development.
- October 2, 2012 City Commission approves first reading of an ordinance amending Ordinance No. 6693 and the Final Development Plan of Stone Pointe Townhomes Residential PUD.
- October 16, 2012 City Commission approves Ordinance No. 6971 amending Ordinance No. 6693 and the Final Development Plan of Stone Pointe Townhomes Residential PUD as proposed; and, accepts the easements and rights-of-way as shown on the Final Plat of Stone Pointe Townhomes, Unit Three, Residential Planned Unit Development.

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.

The existing AO District “is intended to promote the use and development of land in a manner that is compatible with the continued operation and utility of the Manhattan Municipal Airport so as to protect the public investment in, and benefit provided by the facility to the region. The district also protects the public health, safety, convenience, and general welfare of citizens who utilize the facility or live and work in the vicinity by preventing the creation or establishment of obstructions or incompatible land uses that are hazardous to the airport's operation or the public welfare.”

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The amendment site is within the Conical Zone, which is, in general terms, established as an airspace that extends outward and upward in relationship to the Airport and is an approach zone height limitation on the underlying land. Future uses (structures and trees, existing and proposed) in the AO District may be required to obtain an Airport Compatible Use Permit, unless circumstances indicate that the structure or tree has less than 75 vertical feet of height above the ground and does not extend above the height limits prescribed for the Conical Zone.

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. The AO District requires that future uses be reviewed in order to protect airspace. No adverse impacts to the public are expected. There may be a hardship to the applicant if the amendment is denied. An extended drive at the north end of the parking lot will allow Fire department access to the rear of the building.

11. ADEQUACY OF PUBLIC FACILITIES AND SERVICES: THE AMENDMENT SITE CAN BE SERVED BY EXISTING PUBLIC IMPROVEMENTS, INCLUDING STREET, WATER, FIRE SERVICE AND SANITARY SEWER.

12. OTHER APPLICABLE FACTORS: None.

13. STAFF COMMENTS: City Administration recommends approval of the proposed amendment of Ordinance No. 6693, and the approved Final Development Plan of Tract Z, Stone Pointe Townhomes Residential PUD, to be known as the Final Development Plan of Lot 1, Birchwood Villas, Residential Planned Unit Development, subject to the following conditions:

1. Permitted uses shall include 48 multiple-family residential dwelling units.
2. 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),and (7); and, Section 6-104 (B)(2) and B(5), of the Manhattan Zoning Regulations.
3. The proposed ground sign shall be relocated from the Ledge Stone Drive right-of-way onto proposed Lot 1, subject to review and approval by City Administration, prior to issuance of a sign permit.
4. The proposed northern trash enclosure shall be relocated from a utility easement, subject to review and approval by City Administration, prior to construction.

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5. The trash enclosures shall be completely enclosed or re-designed to insure trash areas are screened from public view.

ALTERNATIVES:

1. Recommend approval of the proposed amendment of Ordinance No. 6693, and the approved Final Development Plan of Tract Z, Stone Pointe Townhomes Residential PUD, to be known as the Final Development Plan of Lot 1, Birchwood Villas, Residential Planned Unit Development, stating the basis for such recommendation.
2. Recommend denial of the proposed amendment of Ordinance No. 6693, and the approved Final Development Plan of Tract Z, Stone Pointe Townhomes Residential PUD, to be known as the Final Development Plan of Lot 1, Birchwood Villas, Residential Planned Unit Development, stating the specific reasons for denial.
3. Table the proposed Amendment to a specific date, for specifically stated reasons.

POSSIBLE MOTION:

The Manhattan Urban Area Planning Board recommends approval of the proposed amendment of Ordinance No. 6693, and the approved Final Development Plan of Tract Z, Stone Pointe Townhomes Residential PUD, to be known as the Final Development Plan of Lot 1, Birchwood Villas, Residential Planned Unit Development, based on the findings in the Staff Report, subject to the five conditions of approval recommended by City Administration.

PREPARED BY: Steve Zilkie, AICP, Senior Planner

DATE: October 16, 2014.

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STAFF REPORT

REQUEST: The applicant/owner has requested an amendment of Ordinance No. 6745 and the approved Preliminary Development Plan of Lot 3, McCall Landing Commercial Planned Unit Development to construct an approximate 6,117 square foot commercial building for a Pizza Ranch restaurant. The amendment is in the form of a Final Development Plan.

The amendment is necessary because the proposed restaurant is on a vacant lot that was approved with the Preliminary Development Plan. Other than the permitted uses that would be allowed on Lot 3, none of the information required to be submitted with a PUD application such as building and floor plans, landscaping, signs, lighting, off-street parking and similar information, was provided. The original applicant had no tenant for Lot 3. Condition 11, Ordinance 6745 (below under EXISTING PUD), was added to insure the PUD requirements are considered, prior to development of Lot 3.

APPLICANT/OWNER: Pizza Ranch Inc.

APPLICANT/OWNER 'S ADDRESS: The applicant/owner's address is 204 19th St SE Orange City, IA 51041.

LEGAL DESCRIPTION: Lot 3, a McCall Landing Commercial Planned Unit Development, to the City of Manhattan, KS.

LOCATION: Lot 1 is located northeast of the intersection of McCall Road and Carlson Place.

AREA: The area of Lot 3 is 1.41 acres or 61,455 square feet.

DATE OF NEIGHBORHOOD MEETING: August 14, 2013.

DATE OF PUBLIC NOTICE PUBLICATION: Monday, September 16, 2013.

DATE OF PUBLIC HEARING: PLANNING BOARD: Monday, October 7, 2013.
CITY COMMISSION: Tuesday, November 5, 2013.

EXISTING PUD

Ordinance No. 6745, Permitted Uses and Conditions of Approval

Ordinance No. 6745 dated January 6, 2009 is attached. Permitted Uses are set out in Condition No. 1, and all other conditions of approval include:

1. Permitted uses shall include Farm and ranch supply stores such as, but not limited to, Orscheln Farm & Home, with associated outdoor sales, display and storage; Business and professional offices; Restaurants, including drive-in type; Banks and financial institutions, including drive-in type; Convenience stores, without buried storage tanks; Package liquor stores; Retail stores; and, Home improvement centers, including retail sale of general merchandise, lumber yards, landscape and garden products, hardware, appliances and fixtures, carpet, tile and floor coverings, and general home improvement, household and related products, and outdoor sales, display and storage, including lumber yard areas for stores such as, but not limited to, Menards.
2. Outdoor display, storage and sales on Lot 1 shall be limited to the outside sidewalk area along the western side of the Orscheln's building and in the fenced enclosure, as shown on the application documents.
3. Landscaping and irrigation shall be provided pursuant to a Landscaping Performance Agreement between the City and the owner, which shall be entered into prior to issuance of a building permit.
4. All landscaping and irrigation shall be maintained in good condition.
5. Light poles shall be provided as described in the application documents and shall be full cut-off design. Building lighting shall not cast direct light onto public or private streets or adjacent property and shall be full cut-off design.
6. Signage for Lot 1 – Orscheln's shall be constructed as proposed, consisting of wall signs.
7. Signage for Lot 2 and the ground sign on Lot 3 for Menards and other tenants of the PUD shall be constructed as proposed.
8. On all other lots there shall be no more than one (1) pole or ground sign per lot. In addition, pole signs shall have a maximum height of 30 feet above the ground; the total gross surface area of pole and ground signs including reader-boards shall be limited to no more than 1 square foot of sign area per 1 foot of linear street frontage and shall not exceed a maximum 200 square feet in area; all pole signs shall be fully skirted and the skirting and the bases of pole and ground signs shall include materials and architectural quality similar to those of the associated principal building such as brick, stone and/or stucco; and signs shall include a landscaped area around the base.
9. Wall signs on Lots 3 and 4 shall conform to requirements of the C-2, Neighborhood Shopping District of the Manhattan Zoning Regulations.

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10. Temporary banner signs shall be limited to no more than one (1) banner sign per lot. Exempt signage shall include signage described in Article VI, Section 6-104 (A)(1),(2),(4),(5),(7) and (8); and Section 6-104 (B)(2), of the Manhattan Zoning Regulations. Temporary sales aids and portable signs, as described in Article VI, Signs, of the Manhattan Zoning Regulations, shall be prohibited.
11. Prior to the development of Lot 3 and Lot 4, an amendment of the PUD shall be submitted and approved, prior to issuance of any necessary permits.
12. Underground liquid fuel storage tanks shall be prohibited in the PUD, and storage of hazardous materials, chemicals and other pollutants, shall be prohibited in the east half of the warehouse.
13. Well head easements shall be designated “No Structures Zone.”
14. A revised drainage plan, consisting of grading and improvements necessary to protect the 50-foot and 100-foot well head areas, shall be submitted with the Final Development Plan. The revised drainage plan shall be approved by the Public Works Department.

PROPOSED AMENDMENT

Proposed Use and Building: The proposed rectangular shaped building has an approximate gross floor area of 6,117 square feet, The site plan depicts a single lane drive-in pick-up/carry out stacking lane approximately 120 feet in length on the east side of the building for food pick-ups that are phoned-in (*see written application documents*). There is no order board associated with the carry out lane.

The one story building is approximately 21-feet tall to the parapet wall roofline with approximate maximum parapet roofline 24-feet in height. Exterior materials are primarily composite wood and stone with an asphalt shingled canopy roof over the eastern side of the building. The entrance to the restaurant is on the southeast corner of the building and the carryout on the mid-eastern side of the building. Parapet walls screen roof equipment.

Lot 3 is currently in the 100 Year Floodplain, Zone AH, Base Flood Elevation (BFE) 1008-eet. The proposed building’s lowest floors must be elevated or flood proofed water tight to one foot above BFE, or to 1009-feet NGVD. The proposed lowest floor is shown at 1009-feet, or 1- foot above BFE.

Proposed Preliminary Floodplain Maps, adoption date in 2014, remove Lot 3 from Zone AH, and will designate the tract Zone X, Protected By Levee. Floodplain requirements for elevation will not apply under the proposed map designation, once the floodplain map is adopted.

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

Four 72-square foot externally illuminated wall signs are proposed on each façade. The skirted pole sign is 30-feet tall, with a business identification and reader board, which total 142-square feet in area. The pole sign is located near the southwest corner of Lot 3 north of McCall Road. The sign is in a landscaped base. Both types of sign conform to the requirements of the C-2 District and PUD ordinance.

A Menards' ground sign is located in the southeast corner of Lot 3, which was approved with the Preliminary and Final Development Plans for Menards.

Exempt sign sections changed since adoption of the PUD ordinance (Condition No. 10). Revised exempt signage citation is updated with the amendment, as described in Article VI, Section 6-104 (A)(1),(2),(4),(5),and (7); and, Section 6-104 (B)(2) and B(5), of the Manhattan Zoning Regulations.

PROPOSED LIGHTING: Proposed parking lot lights are full-cutoff fixtures on metal poles. Building lights will accent entrances and provide general security and are full cut-off design.

MATTERS TO BE CONSIDERED WHEN AMENDING A PLANNED UNIT DEVELOPMENT

1. WHETHER THE PROPOSED AMENDMENT IS CONSISTENT WITH THE INTENT AND PURPOSE OF THE APPROVED PUD, AND WILL PROMOTE THE EFFICIENT DEVELOPMENT AND PRESERVATION OF THE ENTIRE PUD: The intent and purpose of the McCall Landing Commercial PUD is to allow a broad range of commercial retail and commercial service uses, including drive-in type restaurants.

The applicant states,

“The purpose of the approved McCall Landing PUD was to provide uses suitable for Commercial zoning districts, as listed on the original PUD. The proposed amendment to the McCall Landing PUD which is a restaurant building is consistent and permitted use under the original PUD.”

2. WHETHER THE PROPOSED AMENDMENT IS MADE NECESSARY BECAUSE OF CHANGED OR CHANGING CONDITIONS IN OR AROUND THE PUD, AND THE NATURE OF SUCH CONDITIONS: The amendment is necessary because the approved site, building and other improvements were not shown on the approved Preliminary Development Plan for Lot 3, which relied on market driven demand for the site.

The applicant states,

“This proposed amendment is not due to changed or changing conditions in or around the PUD.

This amendment is for further development of the original PUD, consistent with its original intent.”

3. WHETHER THE PROPOSED AMENDMENT WILL RESULT IN A RELATIVE GAIN TO THE PUBLIC HEALTH, SAFETY, CONVENIENCE OR GENERAL WELFARE, AND IS NOT GRANTED SOLELY TO CONFER A SPECIAL BENEFIT UPON ANY PERSON: The amendment will result in a relative gain to the public health, safety, convenience or general welfare because public improvements have been designed and built to accommodate commercial uses and vehicular traffic on improved streets, and pedestrians and bicyclists on sidewalks along McCall Road and on Carlson Place. The proposed amendment has no underground storage tanks associated with it that would adversely impact the water well field areas to the north. No special benefit is granted upon any person as a result of the amendment because the amendment is required before a building permit can be issued and anticipates commercial development by one or more businesses on Lot 3.

The applicant states,

“This amendment is not solely for conferring a special benefit upon any person, but in our opinion, will result in a relative gain to the general public by providing services and dining options which are in demand by local residents and visiting guests to Manhattan.”

ADDITIONAL MATTERS TO BE CONSIDERED WHEN AMENDING A PLANNED UNIT DEVELOPMENT

1. LANDSCAPING: Landscaping is a combination of grass areas, deciduous shade trees along public streets, deciduous shrubs, ornamental grasses and perennials in parking lots islands and at the base of the ground sign, with the balance grass lawns, all of which will be maintained by in-ground sprinklers. A landscape shrub and grass border abuts the parking lot along all street frontages to help buffer vehicles encroaching in the front yard.

2. SCREENING: One trash dumpster area is proposed on the south side of McCall Place north of the restaurant. The trash dumpster space will be enclosed with six foot tall composite wood fence.

3. DRAINAGE: A Drainage Study, dated October 3, 2008, was submitted by Schwab-Eaton, P.A. with the Preliminary Development Plan. The PUD is designed to drain, in part, to the south and southeast through on-site storm sewer improvements to storm sewer improvements associated with McCall Road. The majority of the PUD, due to the size of the Menards' site, drains to a detention basin on the east side of PUD, then to McCall Road storm water improvements. The City Engineer reviewed and accepted the 2008 drainage study. Minor changes were made to the drainage plan in 2010 when Menards was built.

I&S Group, submitted an updated Stormwater Management Report (*attachment dated September, 2013*) summarizing the original storm water improvements and changes over the past several years. Lot 3 will drain to storm sewer improvements in swales adjoining Lot 3 and then to the southeast corner of Lot 3 connected to McCall Road.

The Manhattan Public Works Department (*attachment dated September 30, 2013*) reviewed the 2013 update from I&S Group and made the following comments,

“The stormwater runoff for this development is part of the overall PUD site drainage plan that has previously been approved by City Staff. The stormwater runoff for the proposed development was accounted for in the original PUD. No detention is required for this development.

The consulting firm I&S Group, Inc., from La Crosse Wisconsin, developed a Stormwater Management Report dated September 2013. The Stormwater Management Report includes the details for post construction BMP's for the site development. There will be two grass swale areas that will be used to meet the City of Manhattan's post construction BMP requirement. The swales meet the requirement for the City of Manhattan's post construction BMP's. City staff accepts the stormwater management report.”

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

Overall PUD Circulation

The McCall Landing PUD is accessed off McCall Road from a series of travel easements. Carlson Place is at the center of the PUD connecting to a signalized intersection with McCall Road. McCullough Place is on the east side of the PUD with a right-in right-out at its intersection with McCall Road. Landing Place is on the west side of the PUD and intersects McCall Road at the southwest corner of Lot 4, and is a right-in right-out. McCall Place is an east to west travel easement north of Lots 1, 3, and 4, and the south and Lot 2 (Menards). The Preliminary PUD also shows a future travel easement intended to extend to the west from the western boundary of the PUD. A travel easement extending east of McCullough Place and Lot 1 is expected to connect to the east. Both projected

travel easements to east and west properties are intended to create an internal street, or reverse frontage road, to reduce curb cuts onto McCall Road.

Internal Access

Access to Lot 3 will be from McCall Place, west of its intersection with Carlson Place.

Internal circulation is to the front of the store from driving aisles connecting to the curb cut on McCall Place. Drive-in/carryout stacking for the carryout window is along the north side of the building.

Sidewalks and Pedestrian Circulation

A sidewalk was constructed along the east side of Carlson Place and along both sides of McCall Road with a 10-foot wide sidewalk on the north side of McCall for pedestrian and bicyclists. A pedestrian connection from the McCall Road sidewalk connects the restaurant sidewalk to the street sidewalk.

Sidewalk will be constructed on the south side of McCall Place with the development of Lot 3.

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

Off-street Parking

The proposed number of off-street parking is based on the requirements for a restaurant, which requires one parking space per three persons based on design occupancy, and one parking space per employee based on the maximum employee shift. The applicant's design occupancy is noted at 289-persons plus 18-employees on the maximum shift. Based on these two totals, 115-off-street parking spaces are required; however, locally, occupancy is based on seating and employee count. The restaurant has a seating capacity of 224-seats. In this case, based on seating and employee count, off-street parking required is 92-parking spaces, which are proposed, of which two to three are for carry out waiting. The effective number of parking spaces is 89-90, which should be adequate.

Additionally, portions of the off-street parking spaces encroach into the front yard setbacks along abutting McCall Road 27 foot front yard setback, 25-foot front yard setback along Carlson Place and 40-foot front yard setback along McCall Place. The encroachments are minimal reductions of six feet along McCall Road, ten feet along Carlson Place, and six feet along McCall Place. To mitigate the proposed reductions of setback, screening vegetation will be provided along the abutting parking encroachments,

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including evergreen shrubs, grasses, and other plant material to reduce the visual effects of the cars in the front yard setbacks.

Traffic Study

The original Traffic Impact Study, dated January 2008, Revised October 2008, was submitted by Schwab-Eaton P.A and accepted by the Public Works Department. An updated analysis was submitted by I&S Group, dated September 10, 2013 (*attached*).

The Manhattan Public Works Department (*attachment dated September 30, 2013*) reviewed the 2013 update from I&S Group and made the following comments,

“The traffic impact study update was performed by IS Group. This update concludes that the trips generated by this PUD amendment would not cause the overall site to exceed the trip generation already accounted for in the original traffic impact study.

Given this, the Engineering Division has found the traffic impact of this PUD amendment to be acceptable and to not have a significant impact on the existing roadway network.”

5. OPEN SPACE/LANDSCAPED AND COMMON AREA: Approximately 26% of Lot 3 is open landscaped space.

6. CHARACTER OF THE NEIGHBORHOOD: McCall Road corridor from the intersection of US 24 Highway to the intersection with Tuttle Creek Boulevard is a mix of industrial manufacturing and research uses, as well as commercial and highway commercial uses. Several of the uses allowed in the I-2 District, such as health and fitness centers and self storage units, are also allowed in the commercial retail and highway service district.

MATTERS TO BE CONSIDERED WHEN REZONING

1. EXISTING USE: Lot 3 is a vacant commercial tract of land approved with the Preliminary PUD.

2. PHYSICAL AND ENVIRONMENTAL CHARACTERISTICS: Grass covered tract located in the 100 Year Floodplain. The site is lower than the surrounding streets and Menards’ site because the surrounding areas were elevated in 2010. The site is the natural grade before fill is added.

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Lot 3 is currently in the 100 Year Floodplain, Zone AH, Base Flood Elevation (BFE) 1008-feet. The proposed building's lowest floors must be elevated or flood proofed water tight to one foot above BFE, or to 1009-feet NGVD. The proposed lowest floor is shown at 1009-feet, or 1-foot above BFE.

Proposed Preliminary Floodplain Maps, adoption date in 2014, remove Lot 3 from Zone AH, and will designate the tract Zone X, Protected By Levee. Floodplain requirements for elevation will not apply under the proposed map designation once the floodplain map is adopted.

3. SURROUNDING LAND USE AND ZONING:

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

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

(c.) **EAST:** Future K-State Super store and commercial building with drive-n restaurants, McCall Pattern Company; Commercial PUD and I-2 District.

(d.) **WEST:** Vacant McCall Landing lot, self storage, business office, and contractors; Commercial PUD and I-2 District.

4. GENERAL NEIGHBORHOOD CHARACTER: See above, No. 6, **CHARACTER OF THE NEIGHBORHOOD.**

5. SUITABILITY OF SITE FOR USES UNDER CURRENT ZONING: The site is suitable for commercial development subject to the requirements of the Manhattan Zoning Regulations, Article IX, Planned Unit Development Districts, and Ordinance No. 6745.

6. COMPATIBILITY OF PROPOSED DISTRICT WITH NEARBY PROPERTIES AND EXTENT TO WHICH IT MAY HAVE DETRIMENTAL AFFECTS: Lot 3 is in a commercial growth corridor and its development as a commercial site should be compatible with the surrounding neighborhood. Minimal impact on property along the corridor is expected. The proposed development is consistent with the commercial character of the approved PUD.

Fifty foot well head protection zones around City well heads are along the northern boundary of the PUD, and extend partially in the PUD but do not extend near Lot 3. No underground liquid fuel storage tanks will be allowed in the PUD. No underground liquid storage is proposed with Lot 3 development.

7. CONFORMANCE WITH COMPREHENSIVE PLAN: Lot 3 is in the Northeast Planning Area of the Future Land Use Map of the Comprehensive Plan. The site is shown as Industrial (IND) on the map. The proposed amendment would implement a development generally consistent with the policies applicable to all commercial development, as well as policies applicable to Community Commercial.

The PUD was found to be in general conformance to the Comprehensive Plan in 2009. The amendment is in conformance with the approved PUD and Comprehensive Plan.

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

1968	Annexation and rezoning to I-3, Light Industrial District.
1969-2008	Rezoned from I-3 District, to I-2, Industrial Park District.
April 21, 2008	Manhattan Urban Area Planning Board conducts the public hearing and recommends approval of the proposed rezoning of McCall Landing from I-2, Industrial Park District to PUD, Commercial Planned Unit Development District, with 15 conditions of approval.
May 6, 2008	City Commission approves first reading of an ordinance rezoning McCall Landing from I-2, Industrial Park District, to PUD, Commercial Planned Unit Development District.
May 20, 2008	City Commission approves Ordinance No. 6700 rezoning McCall Landing from I-2, Industrial Park District, to PUD, Commercial Planned Unit Development District.
November 17, 2008	At the request of the applicant, Manhattan Urban Area Planning Board tables the public hearing of the proposed rezoning of the revised McCall Landing PUD from PUD, Commercial Planned Unit Development District to PUD, Commercial Planned Unit Development District.
December 1, 2008	Manhattan Urban Area Planning Board conducts the public hearing and recommends approval of the proposed rezoning of the revised McCall Landing PUD from PUD, Commercial Planned Unit Development District to PUD, Commercial Planned Unit Development District, with 14 conditions of approval.

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- December 16, 2008 City Commission approves first reading of an ordinance rezoning the revised McCall Landing PUD from PUD, Commercial Planned Unit Development District to PUD, Commercial Planned Unit Development District.
- January 6, 2009 City Commission approves Ordinance No. 6745 rezoning the McCall Landing PUD from PUD, Commercial Planned Unit Development District to a new PUD, Commercial Planned Unit Development District.
- April 5, 2010 Manhattan Urban Area Planning Board approves the Final Development Plan (Lot 2 – Menards, and Lots 1, 3 and 4 – future amendments) and Final Plat of the McCall Landing Addition Commercial Planned Unit Development.
- April 20, 2010 City Commission accepts the easements and rights-of-way of the Final Plat of the McCall Landing Addition Commercial Planned Unit Development; and, authorizes the Mayor and City Clerk to execute the Agreement regarding construction and maintenance of the storm water facilities and travel easements.
- August 19, 2013 Manhattan Urban Area Planning Board recommends approval of an ordinance amending Ordinance No. 6745 and the Preliminary Development Plan of Lot 1, McCall Landing Commercial Planned Unit Development, to be known as the Final Development Plan of Lot 1, McCall Landing Commercial Planned Unit Development.
- September 3, 2013 City Commission approves first reading of an ordinance amending Ordinance No. 6745 and the Preliminary Development Plan of Lot 1, McCall Landing Commercial Planned Unit Development, to be known as the Final Development Plan of Lot 1, McCall Landing Commercial Planned Unit Development.
- September 17, 2013 City Commission approves Ordinance No. 7038 amending Ordinance No. 6745 and the Preliminary Development Plan of Lot 1, McCall Landing Commercial Planned Unit Development, to be known as the Final Development Plan of Lot 1, McCall Landing Commercial Planned Unit Development, based on the findings in the Staff Report, with three conditions of approval.

Lot 3 has remained vacant since annexation in 1968.

9. CONSISTENCY WITH INTENT AND PURPOSE OF THE ZONING ORDINANCE: The intent and purpose of the Zoning Regulations is to protect the public health, safety, and general welfare; regulate the use of land and buildings within zoning districts to assure compatibility; and to protect property values. The PUD Regulations are intended to provide a maximum choice of living environments by allowing a variety of housing and building types; a more efficient land use than is generally achieved through conventional development; a development pattern that is in harmony with land use density, transportation facilities and community facilities; and a development plan which addresses specific needs and unique conditions of the site which may require changes in bulk regulations or layout. The proposed amendment conforms to the approved PUD and the uses permitted in McCall Landing Commercial PUD.

10. RELATIVE GAIN TO THE PUBLIC HEALTH, SAFETY AND WELFARE THAT DENIAL OF THE REQUEST WOULD ACCOMPLISH, COMPARED WITH THE HARDSHIP IMPOSED UPON THE APPLICANT: There appears to be no relative gain to the public, which denial would accomplish. The proposed commercial building on Lot 3 must be elevated at least one foot above BFE and is proposed one foot above BFE. McCall Road was upgraded to a five lane urban section with curb and gutter, sidewalks, storm sewer improvements and traffic signal at Carlson Place and McCall Road. The amendment creates no adverse impact on the public improvements or public that is served by those improvements.

11. ADEQUACY OF PUBLIC FACILITIES AND SERVICES: LOT 3 CAN BE SERVED BY PUBLIC IMPROVEMENTS, INCLUDING STREET, WATER, FIRE SERVICE AND SANITARY SEWER. MCCALL ROAD WAS UPGRADED TO A FIVE LANE ARTERIAL STREET, WHICH CONSISTS OF FOUR THROUGH LANES, A CENTER TURN LANE, CURB AND GUTTER, STORM WATER IMPROVEMENTS AND SIDEWALKS ON BOTH SIDES OF THE STREET. THE IMPROVEMENTS WERE MADE TO SERVE THE MCCALL LANDING PUD AND GROWTH IN THE MCCALL ROAD CORRIDOR.

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

13. STAFF COMMENTS: All conditions of approval, not in conflict with Ordinance No. 6745 remain in effect. City Administration recommends approval of a proposed amendment of Ordinance No. 6745 and the approved Preliminary Development Plan of Lot 3, McCall Landing Commercial Planned Unit Development, to be known as the Final Development Plan of Lot 3, McCall Landing Commercial Planned Unit Development, with the following condition of approval:

1. 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),and (7); and, Section 6-104 (B)(2) and B(5), of the Manhattan Zoning Regulations.

ALTERNATIVES:

1. Recommend approval of the proposed amendment of Ordinance No. 6745 and the approved Preliminary Development Plan of Lot 3, McCall Landing Commercial Planned Unit Development, to be known as the Final Development Plan of Lot 3, McCall Landing Commercial Planned Unit Development, stating the basis for such recommendation.
2. Recommend denial of the proposed amendment of Ordinance No. 6745 and the approved Preliminary Development Plan of Lot 3, McCall Landing Commercial Planned Unit Development, to be known as the Final Development Plan of Lot 3, McCall Landing Commercial Planned Unit Development, stating the specific reasons for denial.
3. Table the proposed Amendment to a specific date, for specifically stated reasons.

POSSIBLE MOTION:

The Manhattan Urban Area Planning Board recommends approval of the proposed Ordinance No. 6745 and the approved Preliminary Development Plan of Lot 3, McCall Landing Commercial Planned Unit Development, to be known as the Final Development Plan of Lot 3, McCall Landing Commercial Planned Unit Development, based on the findings in the Staff Report, subject to one condition of approval recommended by City Administration.

PREPARED BY: Steve Zilkie, AICP, Senior Planner.

DATE: September, 2013.

STAFF REPORT

REQUEST: The applicant and owner have requested an amendment of Condition 2 of Ordinance No. 6936 and the approved Final Development Plan of Lot 3, Downtown Entertainment District, Unit Three, Commercial Planned Unit Development (PUD) for a second projecting sign on the southeast corner of the Blue Earth Place mixed use building associated with a proposed Radina's Bakehouse.

The amendment is necessary because the proposed projecting sign is a substantial modification of the approved sign plan, which allows one projecting sign on the northwest corner of the Blue Earth Place building. In addition, the proposed sign's total square footage and projection from the building are substantially greater in both area and projection when compared to the approved projecting sign. (Note: The neighborhood meeting notice mentions running lights. After the meeting, the applicant informed City Administration by email to leave the running lights out of the request.)

BACKGROUND

APPLICANT: Wade Radina.

ADDRESS: 618 N. Manhattan Avenue, Manhattan KS 66502.

OWNER: GJL Real Estate Limited Partnership – Gwyn Riffel.

ADDRESS: 1109 Hylton Heights Road, Manhattan, KS 66502.

LOCATION: Lot 3, Downtown Entertainment District Commercial Planned Unit Development, which is generally located north of Ft. Riley Boulevard and east of the intersection of S. 3rd Street and Blue Earth Place.

AREA: The area of Lot 3 is 20,166 square feet.

DATE OF PUBLIC NOTICE PUBLICATION: Monday, October 14, 2013.

DATE OF PUBLIC HEARING: PLANNING BOARD: Monday, November 4, 2013.
CITY COMMISSION: Tuesday, November 18, 2013.

EXISTING PUD

Current Zoning and Project History

Lot 3 is zoned PUD, Commercial Planned Unit Development District.

Ordinance No. 6936 and Conditions of Approval

ORDINANCE NO. 6936 WAS ADOPTED BY THE MANHATTAN CITY COMMISSION ON FEBRUARY 7, 2012, WHICH AMENDED Ordinance No. 6804 and the Preliminary Development Plan for Lot 9. Ordinance No. 6936 also approved the Final Development Plan for that portion of Lot 1 (Candlewood Suites) and Lot 4 (City owned parking lot) of the Downtown Entertainment District, Unit Three, Commercial Planned Unit Development. The Final Development plan of Lot 3 (Blue Earth Place mixed use building) and Lot 5 (City owned parking south of Lot 3) was approved by the Planning Board on May 21, 2012.

Conditions of approval with Ordinance No. 6936 include:

1. A drive-in restaurant, restricted to a coffee and bakery restaurant use, shall be permitted in the east end of the mixed-use building.
2. 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),and (7); and, Section 6-104 (B)(2) and B(5), of the Manhattan Zoning Regulations.

Ordinance No. 6804.

All provisions of Ordinance No. 6804, which established zoning of the Downtown Entertainment District PUD on December 15, 2009, and which were not in conflict with the amendment of Lot 9, remained in force. The conditions of approval of Ordinance No. 6804 include:

1. Permitted uses shall include all of the Permitted Uses of the C-4, Central Business District, City Park, Museum, Conference Center, and Parking Garage.
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. Except that, if the City is also the owner of the property, landscaping, and irrigation shall be provided in compliance with the process established by the governing body to develop the property.
3. All landscaping and irrigation shall be maintained in good condition.

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4. Signage 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.
5. Signage for Lot 5 and Lot 6 shall conform to the requirements of the C-4, Central Business District, of the Manhattan Zoning Regulations.
6. The hotel's canopy, which extends over South 3rd Street right-of-way, shall be permitted subject to the Uniform Building Code, as adopted by the City of Manhattan.
7. A dense hedge row shall be planted at a minimum height of 30-inches at the time of planting along the hotel's South 4th Street and Colorado Street parking lot frontages.
8. Provide landscape trees and vegetated screen along Fort Riley Boulevard on the south side of the parking garage.

Design Guidelines for Downtown Redevelopment

Existing Lot 3 is within the South Project Area of the Downtown Redevelopment Plan. The Building Sign provisions of the Downtown Redevelopment-Entertainment District Design Guidelines are attached and apply to the proposed amendment.

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.

A letter from Patrick Schaub, AIA, Bowman Bowman Novick Inc., dated October 24, 2013, notes that in general the proposed projecting sign seems to be in general conformance with the Design Guidelines. The letter also mentions the inconsistencies between the projection and scale of the proposed sign compared to the approved projecting sign on the northwest corner of the building.

Overall, the intent of the Design Guidelines would be met subject to City Administration's recommendation that the proposed projecting sign should conform to the surface area and projection of the approved projecting sign.

**APPROVED SIGNS FOR DRIVE-IN RESTAURANT TENANT
SPACE AND DISTINCTIVE TENANT PROJECTING SIGN**

Approved First Floor East Side Restaurant/Drive-In Signs

Based on the Final Development Plan building elevation for Blue Earth Place building (Sheet A1 attached), approved signs proposed for a business on the first floor east side of the building intended for a drive-in restaurant, restricted to a coffee and bakery restaurant use, are a 45-square foot illuminated wall sign on the north elevation of the building along Blue Earth Place, and a down-lit tenant wall mounted approximate 5-square foot pedestrian signs, which may project up to 3-feet 8-inches on the south wall of the building, and a 32-square foot menu board for the approved drive-in restaurant. It is likely that a tenant of the drive-in restaurant would have wanted a wall sign similar to the north façade. City Administration would have reviewed the request and assuming the sign was consistent with wall signs, would approve a 45-square foot illuminated sign for the business on the south elevation. Assuming the sign was in character with wall signs approved on the south side of the building, the additional sign would not have been considered a substantial change.

Approved Projecting Sign – Northwest Corner of the Building

The approved projecting sign on the northwest corner is approximately 35-square feet in area, excluding supporting structures, projects approximately 3-feet from the northwest corner of the building, and is described on Sheet A1 as a distinctive tenant sign. Its intent is for a specific business. The sign will be mounted on the building corner 18-feet above grade, excluding the lowest supporting element and approximately 32-feet to the uppermost part of the sign excluding the supporting element. The sign is 14-feet in height. Continuous light bulbs are on the top, bottom, and projecting face edge. Colors and material would be dependent on tenant requirements.

PROPOSED AMENDMENT

PROPOSED PROJECTING SIGN: The proposed 20-foot tall projecting sign is approximately 83-square feet in area (82.66 on the attached application drawing.) Note: Support arms are not counted as a part of the sign's surface area. The lowest part of the sign is 14-feet above grade to a maximum height of 34-feet based on the sign contractor's information. The sign is approximately 12-inches in depth between sign faces and projects 103-inches, or approximately 8 and ½-feet from the southeast corner of the building. Exterior materials are aluminum in shades of gray and black. Application documents indicate a white halo glow of the Radina's letters; the Bakehouse will be white exposed neon; and, perimeter bulbs will be clear housings with white LEDs, and will not flash or run.

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 applicant states, “The proposed amendment is consistent with the intent and purpose of approved Preliminary Development Plan. Indeed, in the third paragraph under Proposed Lot 3 a similar projecting sign is permitted from the NW corner of the mixed use building.

The general intent of the PUD is to provide a broad range of retail, office, residential and other services as an extension of the Central Business District. Effective signage is critical to the success of retail businesses.”

One projecting sign was approved with the PUD amendment of Lot 3 and the Final Development plan. Approval of a second similar projecting sign would be consistent with the intent and purpose of the approved PUD and Final Development Plan.

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 proposed amendment is necessary because the projecting sign on the S.E. corner of the building was not included in the original amendment that allows a similar projecting sign on the N.W. corner of the building.”

The amendment is necessary because only one projecting sign was approved with the PUD amendment and Final Development Plan for Lot 3, Condition 2 of Ordinance No. 6936.

3. WHETHER THE PROPOSED AMENDMENT WILL RESULT IN A RELATIVE GAIN TO THE PUBLIC HEALTH, SAFETY, CONVENIENCE OR GENERAL WELFARE, AND IS NOT GRANTED SOLELY TO CONFER A SPECIAL BENEFIT UPON ANY PERSON: The applicant states, “Approval of the proposed amendment will result in a relative gain to the general public health, safety, and convenience by providing proper directional signs and by assisting in the success of the retail business operating in the space. The proposed amendment will not be granted as a special benefit to any one person. The proposed amendment is consistent with the desire of the City of Manhattan to develop retail businesses in Lot 3.

Additional Considerations

1. Both property owners in the Lot 3 development support the addition of the projecting sign and have stated that it is consistent with their vision for the look and feel of the entertainment district.
2. Due to sight lines limited by surrounding buildings effective signs are an important contributor to the success of Lot 3 retailers.”

Approval of the amendment does not appear to have an adverse impact on the general public’s health, safety and welfare. The sign is separated from the closest abutting view of the sign from its proposed location along Ft. Riley Boulevard by Lot 5, a public parking lot, a distance of approximately 160-feet to the curb line of Ft. Riley Boulevard. The sign does not project over public right-of-way or the public parking lot, or interfere with visual sight lines of the public.

As designed, the sign area and projection of the proposed projecting sign confers a special benefit to one business. A redesign of the proposed projecting sign, similar in area and projection to the approved projecting sign, would not create a special benefit. The proposed projecting sign is significantly larger in area, 83-square feet in area compared to approximately 35-square feet in area for the approved projecting sign, or an increase of about 137% greater sign area for the proposed sign compared to the approved sign, and projects 8 and ½-feet from the southeast corner of the building compared to an approximate 3-foot projection of the approved sign from the northwest corner of the building, or about a 183% greater projection.

ADDITIONAL MATTERS TO BE CONSIDERED WHEN AMENDING A PLANNED UNIT DEVELOPMENT

- 1. LANDSCAPING:** The proposed amendment is a modification of the approved signage for Lot 3 and the standard is not applicable. No change to landscaping is proposed.
- 2. SCREENING:** The proposed amendment is a modification of the approved signage for Lot 3 and the standard is not applicable. No change to screening is proposed.
- 3. DRAINAGE:** The proposed amendment is a modification of the approved signage for Lot 3 and the standard is not applicable. No change to drainage is proposed.
- 4. CIRCULATION:** The proposed amendment is a modification of the approved signage for Lot 3 and the standard is not applicable. No change to circulation is proposed.

5. OPEN SPACE/LANDSCAPED AND COMMON AREA: The proposed amendment is a modification of the approved signage for Lot 3 and the standard is not applicable. No change to open space or common area is proposed.

6. CHARACTER OF THE NEIGHBORHOOD: Lot 3 is part of the Downtown Entertainment District and is generally considered the southern limits of the Central Business District. Lot 3 adjoins Blue Earth Park, a city parking, and the Discovery Center to the north. To the west is S. 3rd Street, public parking garage with directional projecting signs, conference center, and Hilton Garden Inn. To the south is a publicly owned parking lot and Ft. Riley Boulevard. To the east of will be a publicly owned parking lot and a future Holiday Inn Express, and highway on-ramp. South of Ft. Riley Boulevard is a highway service commercial and light industrial neighborhood. The southern character of the PUD is generally dominated by a major four-lane street, Ft. Riley Boulevard.

MATTERS TO BE CONSIDERED WHEN REZONING

1. EXISTING USE: Blue Earth Place mixed use building, which is currently under construction. A drive-in window for a coffee shop and bakery restaurant is a permitted use.

The mixed use building has proposed wall signs, and projecting signs for pedestrians, as well as a projecting identification sign noted as a “distinctive tenant sign” on the northwest corner of the building. Signs are located over building entrances or on wall space, as depicted on elevation drawings. Signs conform to the Design Guidelines and, in general, to the requirements of the C-4, Central Business District.

2. PHYSICAL AND ENVIRONMENTAL CHARACTERISTICS: Lot 3 is a flat tract of land on which a mixed use building is under construction.

3. SURROUNDING LAND USE AND ZONING:

(a.) NORTH: Discovery Center; Downtown Entertainment District PUD.

(b.) SOUTH: Ft. Riley Boulevard, service commercial; LM-SC, Light Manufacturing-Service Commercial District.

(c.) EAST: On ramp to K-18 Highway, Depot; LM-SC District.

(d.) WEST: S. 3rd Street, Hilton Garden Inn, Conference Center, Parking Garage, Retail; Downtown Entertainment District PUD.

4. GENERAL NEIGHBORHOOD CHARACTER: See above under Review Criteria for Planned Unit Development, number 6.

5. SUITABILITY OF SITE FOR USES UNDER CURRENT ZONING: The site has been cleared of all existing structures and is suitable for the proposed uses in the PUD.

6. COMPATIBILITY OF PROPOSED DISTRICT WITH NEARBY PROPERTIES AND EXTENT TO WHICH IT MAY HAVE DETRIMENTAL AFFECTS: The proposed amendment location on the southeast corner of the Blue Earth Place building is generally consistent with the mixed use commercial and residential nature of Lot 3. The projecting sign location is separated from residential areas to the west by the hotel, conference center and parking garage, and fronts on a public parking lot and is oriented towards the motoring public to the south along a major street corridor. No detrimental impacts are expected on adjacent property. The general character of the southeast part of the Downtown Entertainment Districts Unit Three PUD is primarily parking lots and hotels.

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 amendment and Final Development Plan location 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 amendment conforms to the Comprehensive Plan.

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

November 6, 2009: Manhattan Urban Area Planning Board conducts the public hearing on the proposed Downtown Entertainment District from C-4, Central Business District; C-5, Highway Service Commercial District with RDO, Redevelopment District Overlay; and, LM-SC, Light Manufacturing-Service Commercial District, to PUD, Commercial Planned Unit Development District, with eight conditions of approval. **THE PLANNING BOARD RECOMMENDED APPROVAL OF THE REZONING ON A VOTE OF 7-0. IN A SEPARATE ACTION, THE PLANNING BOARD APPROVED THE FINAL PLAT OF THE DOWNTOWN ENTERTAINMENT DISTRICT ADDITION ON A VOTE OF 7-0.**

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- December 1, 2009 City Commission approves first reading of an ordinance rezoning the proposed Downtown Entertainment District from C-4, Central Business District; C-5, Highway Service Commercial District with RDO, Redevelopment District Overlay; and, LM-SC, Light Manufacturing-Service Commercial District, to PUD, Commercial Planned Unit Development District.
- December 15, 2009 City Commission approves Ordinance No. 6804 rezoning the proposed Downtown Entertainment District from C-4, Central Business District; C-5, Highway Service Commercial District with RDO, Redevelopment District Overlay; and, LM-SC, Light Manufacturing-Service Commercial District, to PUD, Commercial Planned Unit Development District; and accepts the easements and rights-of-way as shown on the Final Plat of the Downtown Entertainment District Addition.
- January 20, 2010 Manhattan Urban Area Planning Board approves the Final Development Plan for Lots 1-4 of the Downtown Entertainment District Commercial PUD on a vote of 4-0.
- February 18, 2010 Manhattan Urban Area Planning Board sets aside the Final Plat approved on November 6, 2009, and approves the revised Final Plat of the Downtown Entertainment District Addition.
- January 5, 2012 Manhattan Urban Area Planning Board recommends approval, on a vote of 3-1, of an amendment of the approved Preliminary Development Plan of Lot 9, Downtown Entertainment District Commercial PUD and Ordinance No. 6804 for Proposed Lots 1-6, the Final Development Plan for Proposed Lots 1 and 4, and to deny adding Drive-In Restaurants as a Permitted Use in the PUD.
- January 24, 2012 City Commission overrides the Manhattan Urban Area Planning Board and approves first reading of an ordinance amending the Preliminary Development Plan of Lot 9, Downtown Entertainment District Commercial PUD and Ordinance No. 6804, for Proposed Lots 1-6, the Final Development Plan for proposed Lots 1 and 4, and adds Drive-In Restaurants as a Permitted Use in the PUD.

- February 7, 2012 City Commission overrides the Manhattan Urban Area Planning Board and approves Ordinance No. 6936 amending the Preliminary Development Plan of Lot 9, Downtown Entertainment District Commercial PUD and Ordinance No. 6804, and approves the Final Development Plan for proposed Lots 1 and 4, and adds Drive-In Restaurants as a Permitted Use in the PUD.
- February 7, 2012 City Commission accepts the easement and rights-of-way as shown on the Final Plat of Downtown Entertainment District Addition, Unit Three, Commercial Planned Unit Development.
- May 21, 2012 Manhattan Urban Area Planning Board approves the Final Development Plan for proposed Lots 3 (Blue Earth Place mixed use building) and 5 (city owned parking lot), in the Downtown Entertainment District Addition, Unit Three, Commercial PUD.
- September 5, 2013 Manhattan Urban Area Planning Board approves the Final Development Plan for proposed Lots 2 (Holiday Inn Express) and 6 (city owned parking lot), in the Downtown Entertainment District Addition, Unit Three, Commercial PUD.

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.

Article VI, Sign Requirements of the Manhattan Zoning Regulations' generally recommend the sign requirements of C-2, Neighborhood Shopping District as a guideline for commercial PUD signs. In the case of the Downtown Entertainment District, commercial sign requirements of, the C-4, Central Business District should be considered. Regardless of the C-2 or C-4 district sign requirements, the PUD regulations allow an applicant to propose a sign plan, which can flexible to meet their needs and the site.

In terms of projecting signs, they are permitted in the C-2 District but are prohibited in the C-4 District. The Downtown Entertainment District Design Guidelines do not prohibit projecting signs, but note that, "Signs shall not call attention to themselves at the expense of neighboring businesses by virtue of their color, scale, lighting, materials, or other obtrusive features. Signs should not dominate the building façade."

The proposed projecting sign on the southeast corner of the building may be allowed consistent with the Design Guidelines, if it is in scale in terms of sign area and projection to the approved projecting sign on the northwest corner of the building, as described above in a comparison of the proposed and approved signs. The PUD regulations provide for the flexibility to allow such signage.

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

10. RELATIVE GAIN TO THE PUBLIC HEALTH, SAFETY AND WELFARE THAT DENIAL OF THE REQUEST WOULD ACCOMPLISH, COMPARED WITH THE HARDSHIP IMPOSED UPON THE APPLICANT: There appears to be public health, safety or welfare issues related to the proposed projecting sign that denial would accomplish. The public impact would be minimal if the proposed sign is approved. Denial of the amendment would be a hardship on the owner, based on health, safety and welfare alone, because no adverse effects on the public are expected.

11. ADEQUACY OF PUBLIC FACILITIES AND SERVICES: THE PROPOSED SIGN DOES NOT REQUIRE ANY ADDITIONAL PUBLIC FACILITIES OR SERVICES. ADEQUATE PUBLIC FACILITIES AND SERVICES ARE PROVIDED TO SERVE LOT 3.

12. OTHER APPLICABLE FACTORS: None.

13. STAFF COMMENTS: While the downtown C-4 Central Business District generally does not allow projecting signs other than the typical 4 square foot pedestrian-scale signs, a projecting sign was approved on the northwest corner of the Blue Earth Place building with the 2012 PUD amendment. City Administration recommends approval of the proposed amendment of Ordinance No. 6936 and the Final Development Plan's signage plan for Lot 3, Downtown Entertainment District, Unit Three, Commercial Planned Unit Development, provided that the projecting sign on the southwest corner of the Blue Earth Place building for the restaurant should be consistent, in surface area and amount of projection from the building, with the previously approved projecting sign on the northwest corner of the building. City Administration recommends approval with the following conditions of approval:

1. The proposed projecting sign on the southeast corner of the Blue Earth Place building shall be no greater than 35-square feet in total surface area and shall project no more than 3-feet from the building to the outside of the sign.
2. The sign shall not flash nor have running or chaser lights.
3. A sign permit application shall be submitted and approved prior to installation of the proposed sign.

Attachment No. 3

If the Board is inclined to approve the larger projecting sign, as proposed by the applicant, the Planning Board will need to make findings that support such sign and forward a recommendation of approval of the proposed amendment of Ordinance No. 6936 and the Final Development Plan's signage plan for Lot 3, Downtown Entertainment District, Unit Three, Commercial Planned Unit Development, to allow the projecting sign on the southeast corner of the Blue Earth Place building, subject to the following conditions:

1. A projecting sign on the southeast corner of the Blue Earth Place building shall be constructed as per the proposed sign area and sign projection from the building, as shown in the application documents.
2. The sign shall not flash nor have running or chaser lights.
3. A sign permit application shall be submitted and approved prior to installation of the proposed sign.

ALTERNATIVES:

1. Recommend approval of the amendment of Ordinance No. 6936 and the Final Development Plan's signage plan for Lot 3, Downtown Entertainment District, Unit Three, Commercial Planned Unit Development, for a modified projecting sign that is constant in surface area and projection as the previously approved projecting sign, based on the findings in the Staff Report.
2. Recommend approval of the amendment of Ordinance No. 6936 and the Final Development Plan's signage plan for Lot 3, Downtown Entertainment District, Unit Three, Commercial Planned Unit Development, for a larger projecting sign as proposed by the applicant, stating the findings for such recommendation.
3. Recommend denial of the proposed amendment of Ordinance No. 6936 and the Final Development Plan's signage plan for Lot 3, Downtown Entertainment District, Unit Three, Commercial Planned Unit Development, stating the specific reasons for denial.
4. Table the proposed Amendment to a specific date, for specifically stated reasons.

POSSIBLE MOTION:

The Manhattan Urban Area Planning Board recommends approval of the proposed amendment of Ordinance No. 6936 and the Final Development Plan's signage plan for Lot 3, Downtown Entertainment District, Unit Three, Commercial Planned Unit Development based on the findings in the Staff Report, subject to the three conditions of approval recommended by City Administration:

Attachment No. 3

1. The proposed projecting sign on the southeast corner of the Blue Earth Place building shall be no greater than 35-square feet in total surface area and shall project no more than 3-feet from the building to the outside of the sign.
2. The sign shall not flash nor have running or chaser lights.
3. A sign permit application shall be submitted and approved prior to installation of the proposed sign.

PREPARED BY: Steve Zilkie, AICP, Senior Planner

DATE: October 29, 2013.

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