



***MINUTES***  
***CITY COMMISSION MEETING***  
***TUESDAY, MARCH 20, 2018***  
***7:00 P.M.***

The Regular Meeting of the City Commission was held at 7:00 p.m. in the City Commission Room. Mayor Linda Morse and Commissioners Michael L. Dodson, Usha Reddi, Wynn Butler, and Jerred McKee were present. Also present were the City Manager Ron R. Fehr, Deputy City Manager Jason Hilgers, Assistant City Manager Kiel Mangus, Assistant City Attorney Rachel Zenger, City Clerk Gary S. Fees, 8 staff, and approximately 7 interested citizens.

**PLEDGE OF ALLEGIANCE**

Mayor Morse led the Commission in the Pledge of Allegiance.

**COMMISSIONER COMMENTS**

Commissioner McKee discussed the recent National League of Cities Conference that he attended and stated there was also an opportunity to meet with the federal delegation. He informed the community that a March for Our Lives event would be held on Saturday, March 24, 2018, from 2:00 p.m. - 4:00 p.m., at CiCo Park, and invited those interested to participate.

Commissioner Reddi congratulated the K-State men's and women's basketball teams and wished them continued success in post-season tournament play. She stated there would be a Small Business Conference on April 12, 2018, from 11:00 a.m. - 5:00 p.m., at Four Points by Sheraton, sponsored by the Manhattan Area Chamber of Commerce, and for additional information to visit the Chamber's website at [www.manhattan.org](http://www.manhattan.org).

Commissioner Dodson thanked the Manhattan Fire Department, the Riley County Police Department and the many public servants that helped during Fake Patty's Day on Saturday, March 10, 2018. He stated that additional statistics from the event would be available in the next week or so to make an assessment.

## COMMISSIONER COMMENTS (*CONTINUED*)

Mayor Morse stated that she attended the command center for Fake Patty's Day in City Park on Saturday, March 10, 2018, and also attended and enjoyed the St. Patrick's Day Parade on Saturday, March 17, 2018. She extended congratulations to Lacy Pitts and Jordon Kiehl who were elected to the Kansas State University Student Body as president and vice president. She informed the community that there would be a Fair Housing Seminar on April 19, 2018, from 8:00 a.m. - 12:15 p.m., at the Headquarters Fire Station at 2000 Denison Avenue, and encouraged those interested to register on the City's website. She stated that there would be a Flint Hills Regional Conference on May 16, 2018, at the Manhattan Conference Center and encouraged those interested to save the date and register online with the Manhattan Area Chamber of Commerce.

## CONSENT AGENDA

(\* denotes those items discussed)

### MINUTES

The Commission approved the minutes of the Regular City Commission Meeting held Tuesday, March 6, 2018.

### CLAIMS REGISTER NOS. 2876 and 2877

The Commission approved Claims Register Nos. 2876 and 2877 authorizing and approving the payment of claims from February 28, 2018 - March 13, 2018, in the amounts of \$154,069.47 and \$4,008,072.92, respectively.

### LICENSE

The Commission approved a Tree Maintenance License for the calendar year 2018 for Done Right LLC, PO Box 91, Riley, Kansas, and Wildcat Tree Service, 3761 Cumberland Road.

### ORDINANCE NO. 7347 - AMEND LOT 1, DOWNTOWN ENTERTAINMENT DISTRICT, UNIT TWO, PLANNED UNIT DEVELOPMENT

The Commission approved Ordinance No. 7347 amending Ordinance No. 6804 and the Final Development Plan of Lot 1, Downtown Entertainment District, Unit Two, Planned Unit Development, generally located on the northeast corner of Colorado Street and South 4<sup>th</sup> Street, based on the findings in the Staff Report (*See Attachment No. 1*) with three conditions of approval, and the recommendation of the Manhattan Urban Area Planning Board Planning Board.

## CONSENT AGENDA (CONTINUED)

### FIRST READING – ANNEX – HERITAGE SQUARE NORTH, UNIT TWO, RIVER TRACT

The Commission approved first reading of an ordinance annexing the River Tract, Heritage Square North, Unit Two, an 8.45 acre tract of land, generally located to the north of U.S. Highway 24, based on conformance with the Manhattan Urban Area Comprehensive Plan, the Growth Vision, and the Capital Improvements Program, and based on the recommendation of the Planning Board.

### FIRST READING - REZONE - HERITAGE SQUARE NORTH, UNIT TWO, RIVER TRACT

The Commission approved first reading of an ordinance rezoning the River Tract, Heritage Square North, Unit Two, an 8.45 acre tract of land, generally located to the north of U.S. Highway from Pottawatomie County CH, Highway Commercial District, to C-5, Highway Service Commercial District, based on the findings in the Staff Report (*See Attachment No. 2*), and the recommendation of the Manhattan Urban Area Planning Board Planning Board.

### CONTRACT AMENDMENT NO. 1 – WASTEWATER TREATMENT PLANT MECHANICAL, ELECTRICAL, AND PLUMBING SYSTEM IMPROVEMENTS (SS1712, CIP #WW179E)

The Commission authorized the Mayor and City Clerk to execute Contract Amendment No. 1 with HDR Engineering, Inc., of Olathe, Kansas, in an amount not to exceed \$179,836.00, for professional services for the Wastewater Treatment Plant Mechanical, Electrical and Plumbing System Improvements Project (SS1712, CIP #WW179E).

\* 

### AWARD CONTRACT – DOUGLASS COMMUNITY CENTER, PHASE 2, IMPROVEMENTS (CD1717)

Eddie Eastes, Director of Parks and Recreation, responded to questions from the Commission regarding the project and savings that will be achieved by using a different style of flooring, by not moving the existing hearing/ventilation/air conditioning (HVAC) unit, and by utilizing City staff to perform some of the items.

The Commission accepted the Engineer's Opinion of Probable Cost of \$136,316.18 for the base bid, \$2,839.20 for Alternate No. 1 (fence around the exterior HVAC unit), and \$3,045.00 for Alternate No. 2 (painting the basement); rejected the bids; and awarded and authorized the Mayor and City Clerk to execute a negotiated construction contract with RM Baril General Contractors, Inc., of Manhattan, Kansas, in an amount not to exceed \$146,148.18 (base bid only) for the Douglass Community Center, Phase 2, Improvements Project (CD1717).

## CONSENT AGENDA (CONTINUED)

### DEVELOPMENT AGREEMENT – FIRST CHRISTIAN CHURCH STREET (ST1713), SANITARY SEWER (SS1719), AND WATER (WA1714) IMPROVEMENTS

The Commission authorized the Mayor and City Clerk to execute an Agreement for Construction of Public Infrastructure by the Developer, First Christian Church, Inc., of Manhattan, Kansas, for the First Christian Church Public Street (ST1713), Sanitary Sewer (SS1719) and Water Improvements (WA1714) Project.

### \* AMENDMENT NO. 4 – MOWING SERVICES

Eddie Eastes, Director of Parks and Recreation, responded to questions from the Commission regarding the potential to maintain some of the Kansas Department of Transportation (KDOT) right-of-way areas. He provided additional information and stated that he would follow-up with the contract mower and find out an approximate cost.

The Commission authorized the Mayor and City Clerk to execute mowing services contract extension Amendment No. 4 in the amount of \$37,925.00 with Little Apple Lawn and Landscape, of Manhattan, Kansas, for the 2018 mowing season, to terminate on October 31, 2018.

### PURCHASE – 2018 COMPACT TRACK LOADER (CIP #SW089E)

The Commission authorized the purchase of a 2018 Compact Track Loader (CIP# SW089E) from White Star Machinery, of Manhattan, Kansas, in the amount of \$60,709.09, to be paid from the Stormwater Fund.

### PURCHASE – 2018 SEASON - SWIMMING POOL CHEMICALS

The Commission authorized City Administration to purchase muriatic acid for the amount of \$0.25 per pound, sodium bicarbonate for the amount of \$0.26 per pound, calcium chloride for the amount of \$0.25 per pound, sodium thiosulfate for the amount of \$0.80 per pound, and sodium hypochlorite for the amount of \$1.40 per gallon for treatment of the City pools for the 2018 season from Edwards Chemicals, Inc., of Elwood, Kansas, to be paid from the Parks and Recreation Swimming Pool Division Operation Budget General Fund.

### BOARD APPOINTMENT

The Commission approved appointment by Mayor Morse of Marcia Hornung to the Social Services Advisory Board.

Mayor Morse opened the public comments.

Hearing no comments, Mayor Morse closed the public comments.

## CONSENT AGENDA (CONTINUED)

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

## GENERAL AGENDA

### DISCUSSION - PET LICENSES

Kiel Mangus, Assistant City Manager, presented an overview of the item. He provided background information, presented pet licensing numbers and license fees, discussed recent changes and enforcement measures, highlighted draft ordinance discussion points, provided comparable Kansas cities and pet license fees, reviewed the Animal Shelter budget for 2018, and discussed proposed licensing process changes and fees. He asked for feedback from the Commission and stated City Administration would bring back the ordinance to the Commission based on direction received.

After comments from the Commission, Kiel Mangus, Assistant City Manager, responded to questions from the Commission regarding the license notification process, issuing warning letters, achieving compliance for pet owners to license their animals, and licensing fees.

Ron Fehr, City Manager, responded to questions from the Commission regarding licensing of pets and facilities at Fort Riley.

Kiel Mangus, Assistant City Manager, provided additional information on the item. He responded to questions from the Commission regarding feedback received from the veterinarians and electronic chip readers for pets.

Mayor Morse stated there has to be some accountability with pet licensing and she did not want this to go unregulated. She voiced support to work with the local veterinarians, to issue citations in order to achieve a higher level of compliance, and to increase licensing fees.

Commissioner Butler stated that he has been championing this item and discussed the budget at the Animal Shelter. He wanted to increase the current level of only nine (9) percent of the pets in Manhattan being licensed. He voiced support to provide the veterinarians the option to license animals at their clinic and remit revenue to the City and the clinic would keep a portion of each license fee processed from their clinic. He discussed increases proposed to the licensing fees and was in support of the recommendation, especially, for unspayed and unneutered animals. He also wanted to revisit and reduce the minimum fines proposed for non-compliance for first, second and third offenses.

## GENERAL AGENDA (*CONTINUED*)

### DISCUSSION - PET LICENSES (*CONTINUED*)

Eddie Eastes, Director of Parks and Recreation, responded to questions from the Commission regarding the number of pets allowed and licensing fees.

Commissioner Reddi stated that she was not in support of increasing licensing fees. She wanted to enforce pet licensing appropriately, but stated she did not want to put the onus on the veterinarians and that this should be a responsibility of the City. She discussed consideration to waive licensing fees for pet owners with service dogs.

Commissioner Dodson stated that state and federal laws require rabies shots, and that society does put the onus on others. He stated a software program could be set-up to send a reminder to the owner that his or her pet license is due. He said the nexus is in the veterinarian office or at the Animal Shelter.

Eddie Eastes, Director of Parks and Recreation, provided additional information on the process at the Animal Shelter.

Commissioner McKee asked what software program the City was using and stated that part of the problem appears to be enforcement as well as education. He voiced support for additional education versus stronger enforcement. He stated he did not want veterinarians having the option to opt out of licensing animals at their clinics and asked how many veterinarians were willing to participate.

Mayor Morse opened the public comments.

Dr. John Lyons, Candlewood Veterinary Clinic, informed the Commission that he has confidentiality rules he has to follow like any physician and voiced concern that he could lose his license for releasing confidential information. He provided additional information on confidentiality consideration for his clients and expressed concerns with the proposed ordinance. He encouraged the Commission to focus on the dog parks and pet shops that do not have a legal obligation to share information to increase the number of pets being licensed in Manhattan. He stated the veterinarians should not solve the problems with licensing, but the Animal Shelter staff should be the ones to do this. He explained the purpose of microchips, the cost for microchips, and stated that pet owners need to update the information when they move from one area to another.

Commissioner Dodson stated the cost of a pet license pales in comparison to the annual food cost for a pet. He suggested that pet groomers and dog parks have merit to look at. He asked about the legislation regarding confidentiality and asked what was the ethical problem in releasing data on a pet to the City.

## GENERAL AGENDA (*CONTINUED*)

### DISCUSSION - PET LICENSES (*CONTINUED*)

Dr. John Lyons, Candlewood Veterinary Clinic, responded to questions from the Commission regarding legislation and confidentiality of client information.

Kiel Mangus, Assistant City Manager, provided additional information on concerns expressed regarding client confidentiality to the City from veterinarians.

Dr. John Lyons, Candlewood Veterinary Clinic, informed the Commission that he could lose his license for releasing confidential information. He then responded to questions from the Commission regarding the American Veterinary Medical Association and stated that most of his colleagues in Wichita do not comply because they do not believe it is right to share client information. He then responded to questions from the Commission regarding the American Veterinary Medical Association and compliance considerations.

Commissioner Butler stated that he understood the concerns expressed from the veterinarians, which is why he supports the option for veterinarians to have the client pay for a license there or send them to the City for a license. However, he stated that he did not see the ethical issues in providing information from the veterinarians to the City.

Dr. John Lyons, Candlewood Veterinary Clinic, informed the Commission that this would be a burden to him and stated the City needs to do more with licensing of animals. He reiterated his concerns in providing confidential client information and then responded to questions from the Commission.

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

Kiel Mangus, Assistant City Manager, provided additional information on the item and comments received from veterinarians. He informed the Commission that City staff could provide legal clarification and further discuss the topic with the veterinarians.

Ron Fehr, City Manager, responded to questions from the Commission regarding fee increases for unspayed and unneutered pets.

Commissioner Reddi stated that she wanted to see the licensing fees remain at the same level and was not in favor of increasing the fees. She said the priority is to ensure that pets have their rabies and vaccinations as a safety measure. She stated that she understood the concerns regarding private information. She also voiced support for notification letters versus issuing citations if a pet owner did not meet the licensing deadline.

After further discussion and comments from the Commission, Kiel Mangus, Assistant City Manager, responded to additional questions.

## GENERAL AGENDA (CONTINUED)

### DISCUSSION - PET LICENSES (CONTINUED)

As this was a discussion item, the Commission took no formal action.

### QUARTERLY UPDATE - MANHATTAN REGIONAL AIRPORT

Jesse Romo, Airport Director, presented an overview of the item. He highlighted the first quarter activities including the snow and ice events at the Airport, provided an update on the Airport parking design and pylon sign, and updated the Commission on the Transportation Security Administration (TSA) Terminal office space project. He then responded to questions from the Commission regarding the office space at the Terminal and the request from TSA to utilize the space.

After comments from the Commission, Jesse Romo, Airport Director, informed the Commission that there is a new Aircraft Rescue and Fire Fighting (ARFF) truck at Fire Station 4, discussed a future planning study for the Airport runway, and outlined a potential schedule. He highlighted air service enplanements and stated that 2017 was the best year ever with 66,206 enplanements at Manhattan Regional Airport. He provided a map of the air service catchment area; highlighted air service passenger retention; discussed fare comparisons with ICT (Wichita Dwight D. Eisenhower National Airport), MCI (Kansas City International Airport), and MHK (Manhattan Regional Airport); and presented information on capacity and load factors for MHK. He then responded to questions from the Commission regarding load factors, considerations and planning phases for the runway, and discussed variables for delayed and cancelled flights.

Mayor Morse opened the public comments.

Hearing no comments, Mayor Morse closed the public comments.

As this was a discussion item, the Commission took no formal action.

### ADJOURNMENT

At 8:50 p.m., the Commission adjourned.

  
\_\_\_\_\_  
Gary S. Fees, MMC, City Clerk



# Staff Report

## Community Development

### **PUD AMENDMENT AND FINAL DEVELOPMENT PLAN**

**Hearing Date:** February 19, 2018

**Re:** Amend Ordinance No. 6804 of the Downtown Entertainment District, Unit Two PUD for the development of a 25 stall parking lot. The Amendment is proposed as a Final Development Plan for Lot 1.

**Applicant:** McCullough Development for CP Building, LLC

**Property Owner:** CP Building, LLC (Charlie Busch)

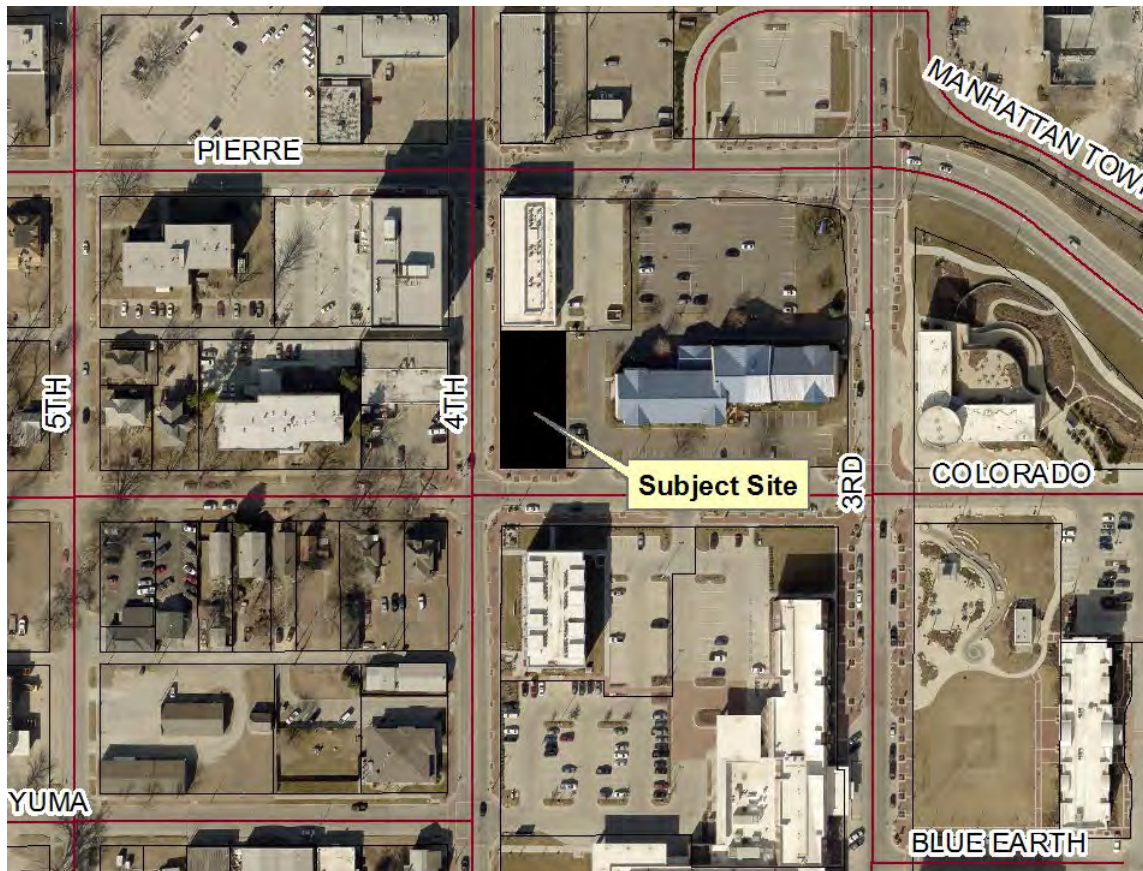
**Property Address:** Downtown Entertainment District, Unit Two, Lot 1. Generally located on the northeast corner of Colorado and 4<sup>th</sup> Street.

**Total Area:** .27 acres

**Date of Neighborhood Meeting:** December 27, 2017

**Date of Public Notice Publication:** January 29, 2018

**Date of City Commission:** March 6, 2018



## BACKGROUND

The existing Downtown Entertainment District Planned Unit Development (PUD), Ordinance No. 6804, was approved on December 15, 2009 and is subject to the following conditions of approval:

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.
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.

*Attachment No. 1*

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 S. 3<sup>rd</sup> 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 S. 4<sup>th</sup> Street and Colorado Street parking lot frontages.
8. Provide landscape trees and vegetated screen along Ft. Riley Boulevard on the south side of the parking garage.

This PUD was created as an extension of the Central Business District. The district created an 18-acre tract of land to be developed as a hotel, museum, conference center, park, parking garage, residential units and a broad range of retail spaces. The subject property was originally platted as Lot 5 of the Downtown Entertainment District. It was planned to be a three-story mixed use building with retail on the main floor and residential use on the top two floors.



In 2010, the final plat of the Downtown Entertainment District, Unit Two was approved. And the subject property became Lot 1 of the Downtown Entertainment District, Unit Two. In addition, the Final Development Plan of Lot 2 (301 S. 4<sup>th</sup> Street) was approved at that time, but there was no submittal for the Final Development Plan of Lot 1, and Lot 1 remained undeveloped.

At this time the applicant would like to submit a Final Development Plan for Lot 1. And because the original plans for development on this lot have been modified, this case will include a PUD Amendment and a Final Development Plan.

**PROPOSED AMENDMENT AND FINAL DEVELOPMENT PLAN**

For this proposed amendment, the applicant is desiring to build a 25 stall parking lot. The applicant would like to put in the parking lot to meet the needs of the employees at the Civic Plus building which is located across 4<sup>th</sup> Street. The applicant has been having trouble leasing the south space in the Civic Plus Building, and believes this parking lot will help to attract new tenants.

*Attachment No. 1*

However, despite this request, the applicant does not plan for this parking lot to be permanent. As previously mentioned, this lot was originally planned to house a mixed-use building, and the owners would eventually like to develop this lot as intended. In a letter submitted by Charlie Busch on February 5, 2018, Mr. Busch states, “The owners would like nothing better than to have the originally specified building/asset on the lot. . . . Ideally, if an office or retail user would come to us and either ‘partner’ or commit to a long-term lease for at least the main floor of a ‘build to suit’ building, we would re-purpose the parking lot into what was originally specified.” But until this happens, it is the intent of the owner to satisfy the demands of the market, which at this time is to develop a parking lot at this location. And ideally, the applicant would re-purpose this parking lot at some point in the future.

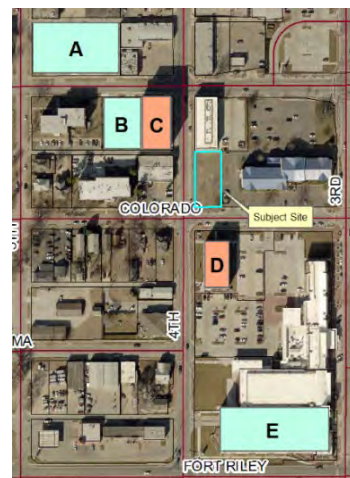
**REVIEW OF MATTERS TO BE CONSIDERED WHEN AMENDING A PLANNED UNIT DEVELOPMENT**

**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 approved PUD was to create an extension of the Central Business District. This extension would insure continued vibrancy and economic stability of the downtown. If this parking lot aids in the leasing of space within the Civic Plus Building, then it would be insuring continued economic stability. On the other hand, this proposal is a significant change from the original plan, and replacing a planned mixed-use building with a parking lot could be considered inefficient development in this PUD. An argument could be made for positive and negative impacts of this amendment.

**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:**

Since the approval of the Preliminary Development Plan of the Downtown Entertainment District PUD, a few conditions have changed. First of all, the parking situation has changed. The Civic Plus Building, which employs over 225 people, was built (C). There are two parking lots to serve the Civic Plus Building. The first lot which is north of Pierre Street has 97 parking stalls (A). The second is to the west of the Civic Plus Building and it has 43 parking stalls (B). There is also the 400 stalls located in the public parking garage located to the north of Fort Riley Boulevard (E). This public garage is located about



*Attachment No. 1*

1000 feet from the Civic Plus Building. This is under ¼ mile (about .19 miles). An additional change to this PUD occurred when a 2012 amendment allowed a four-story mixed use building, which later was amended to become all residential, to go in the parking lot of the Hilton Garden Inn Hotel (D). With the addition of these buildings and the public's desire of close parking, the applicant would like to give closer parking options with the addition of this parking lot.

The second changing condition is the changing economic market. Currently there is a soft commercial and multi-family residential market in Manhattan, which has contributed to the lack of development of this property. The applicant wishes to make use of this property in the interim while still seeking for a development opportunity. Therefore, due to the changing conditions affecting nearby parking and the economic market, this amendment is made necessary.

**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:**

This amendment will provide a safety and convenience to the public because it will provide additional parking for the Civic Plus Building and thus create more available parking to give the public easier access to their destinations.

**REVIEW OF ADDITIONAL MATTERS TO BE CONSIDERED WHEN AMENDING A PLANNED UNIT DEVELOPMENT**

**1. Landscaping:** A landscape plan has been presented as part of this amendment. The landscape is typical of the surrounding landscape and meets the landscape requirements of the Zoning Regulations. The applicant will be required to enter into a Landscape Performance Agreement to insure the installation of the landscape.

**2. Screening:** For this lot, no screening is required.

**3. Drainage:** The surface of the parking lot will be sloped so that water will run south. The water will then be collected and drain into the existing storm-water system on 4<sup>th</sup> Street.

*Attachment No. 1*

**4. Circulation:** The parking lot will be entered from two access easements that will run north and south. There will be the Fairfield and the Gateway Travel Easement. The Fairfield easement exits onto Colorado Street, and the Gateway Easement exits onto Pierre Street.



**5. Open Space/Landscaped and Common Area:** There will be no open space or common area.

**6. Character of The Neighborhood:** The neighborhood is part of the Central Business District, and it is composed of residential, hotels, entertainment venues, retail, businesses, and parking lots.

**REVIEW OF THIRTEEN MATTERS TO BE CONSIDERED**

The following items will help to determine if the specific property is suitable for the rezoning request. (These are the 13 matters to consider when rezoning as found in Article 15-403 (A)).

**1. Existing Use of Property**

This property is vacant, cleared and ready to be developed.

**Staff Finding**

The property is vacant; therefore, there is no use on these existing property.

**2. Physical and Environmental Characteristics of the Property**

The subject site is flat. It is not located within a regulated floodplain.

**Staff Finding**

The property is flat and ready to be developed.

**3. Surrounding Zoning and Land Uses of Nearby Properties**

**NORTH:** Office building; Downtown Entertainment District, Unit 2 PUD.

**SOUTH:** Four-story multiple family residential building; Downtown Entertainment District, Unit 2 PUD.

**EAST:** Fairfield Inn Hotel; C-4 Central Business District and C-5 Highway Service Commercial District.

**WEST:** Businesses and parking lot; C-4 Central Business District.

**Staff Finding**

The surrounding zoning is composed of commercial and multiuse zones and the existing surrounding land uses are commercial and residential.

**4. The Suitability of the Property for Land Uses to which it is Restricted Under Current Zoning**

The subject site is currently zoned PUD.

**Staff Findings**

The subject site is suitable for commercial development within the City of Manhattan with the current PUD zoning designation.

**5. The Character of the Neighborhood**

The neighborhood is part of the Central Business District, and it is composed of residential, hotels, entertainment venues, retail, businesses, and parking lots.

**Staff Findings**

The character of the neighborhood is a mix of commercial buildings along with medium to high density residential.

**6. The Compatibility of the Proposed Zoning District with Nearby Properties and the Extent to which it may Detrimentially Affect Those Properties**

The proposed development will create a stand-alone parking lot. There are certainly many existing parking lots within this district. Parking lots are generally compatible with all types of uses. There are no foreseen detrimental effects from adding an additional parking lot to this area.

**Staff Findings**

The proposed amendment is compatible and will not have any detrimental effects on nearby properties.

**7. Conformance of the requested change to the adopted Comprehensive Plan**

The Future Land Use of the Manhattan Area 2035 Comprehensive Plan shows this area as Central Core District. The applicable land use policies found in the Comprehensive Plan are below.

**CCD-1: Characteristics**

*The Central Core District is a special purpose designation for the Downtown core and Aggieville, both of which have a unique historical character and importance to the broader community. Although the two areas are not physically connected, they both consist of a variety of civic, cultural, retail, commercial, business, professional offices, and financial institutions, and residential uses in a compact, vibrant setting. This setting is enhanced by a large inventory of older and/or historic structures and a pedestrian-friendly scale. Identified redevelopment areas in the Downtown core provide opportunities for a range of uses—including high density residential—provided they are designed as part of a master planned development that is compatible with and complimentary to the design and pedestrian-oriented character of the traditional urban fabric in Downtown. (Note: “Master planned” refers to the process of developing an overall concept or neighborhood level plan for an area, prior to development, that takes into consideration the relationships between land uses, buildings, access and site characteristics, in order to establish a more unified and compatible development. It can apply to a large single site, a whole neighborhood, or series of neighborhoods.)*

**CCD-2: In fill and Redevelopment**

*Encourage targeted infill development and/or redevelopment to take advantage of underutilized areas such as large surface parking lots, help enhance the overall mix of uses, and enhance the continued revitalization of the Central Core District. Encourage infill and redevelopment that is in keeping with the historic character and scale of the Downtown Historic District.*

**CCD-3: Rehabilitation and Adaptive Reuse**

*Encourage the rehabilitation and adaptive reuse of existing underutilized structures, particularly along Poyntz Avenue in the Downtown core. Support the continued adaptation and reconfiguration of existing spaces in the Manhattan Town Center and on surrounding pad sites to meet changing market preferences and the needs of the community.*

**CCD-4: Housing**

*Promote an expanded range of housing options in the Central Core to reinforce the variety and vitality of the environment. Encourage the conversion of upper floors above existing retail storefronts to office or residential uses, the integration of Residential High Density or Urban Core Residential type uses at the fringe of the Central Core District, and the conversion of obsolete uses or surface parking lots to housing over time.*

**CCD-5: Outdoor Seating**

*Support the provision of outdoor dining and seating areas along the sidewalk edge, particularly in the Downtown core, to create activity along the street.*



**CCD-6: Mix of Uses**

*Support a vibrant mix of residential and non-residential uses within the Central Core. Concentrate active, visible uses that encourage pedestrian activity, such as restaurants or retail storefronts, on the first floor of buildings along Poyntz Avenue and the other retail-oriented streets, and in Aggieville. In these locations, encourage offices, residential or other uses that typically are “closed off” from the street as upper floor uses; however, single use buildings (e.g. office or residential) are appropriate on secondary streets in Downtown where retail may not be viable and contribute to the overall vitality of the Central Core District. 52*

The Future Land Use Map identifies this location as the Central Core District. While this location is zoned PUD, Ordinance 6804, which established this PUD does permit all uses within the C-4, Central Business District to be developed within this PUD. Since parking lots are allowed in the C-4 District, the proposed amendment is compatible with the Future Land Use Map.

The Land Use Policies identify the characteristics of the Central Core District and stresses the importance of maintaining the pedestrian-oriented character of our downtown. Despite the fact that there are many existing parking lots within this district, a parking lot does not enhance the pedestrian aspects of our downtown. However, in contrast to this, the Land Use Policy also mentions the importance of supporting the continued adaptation and reconfiguration of existing spaces to meet changing market preferences and the needs of the community. The subject site is vacant and therefore is not contributing to the livelihood of the downtown. Building a parking lot at this location can help to meet the needs of the market preference which is to have available parking closer to your final destination.

**Staff Findings**

The proposed amendment does conform to the Future Land Use Map and the Land Use Policies of 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

*Attachment No. 1*

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.

- 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.
- February 23, 2010 City Commission accepts the rights-of-ways and easements of the Downtown Entertainment District Addition.
- September 20, 2010 Manhattan Urban Area Planning Board approves the Final Development Plan for proposed Lot 2, in the Downtown Entertainment District Addition, Commercial PUD, on a vote of 7-0, and approves the Final Plat of Lots 1-3, Downtown Entertainment District Addition, Unit Two, Commercial PUD, on a vote of 7-0.

*Attachment No. 1*

- October 5, 2010 City Commission accepts the rights-of-ways and easements of the Downtown Entertainment District Addition, Unit Two, Commercial PUD.
- 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 7, 2012 Manhattan Urban Area Planning Board recommends approval, on a vote of 7-0, of proposed amendments of Ordinance No. 6804 and the Final Development Plan of Lot 4 for modifications to the existing Hilton Garden Inn's off-street parking lot including reduction of the number of off-street parking spaces and landscape plan and the addition of a proposed four-story mixed use building.
- June 5, 2012 City Commission approves first reading of an ordinance amending Ordinance No. 6804 and the Final Development Plan of Lot 4 for modifications to the existing Hilton Garden Inn's off-street parking

*Attachment No. 1*

lot including reduction of the number of off-street parking spaces and landscape plan and the addition of a proposed four-story mixed use building.

- June 19, 2012 City Commission approves Ordinance No. 6951 amending Ordinance No. 6804 and the Final Development Plan of Lot 4, Downtown Entertainment District Commercial Planned Unit Development District, based on the findings in the Staff Report, with the one condition recommended by the Manhattan Urban Area Planning Board.
- February 4, 2013 Manhattan Urban Area Planning Board, on a vote of 5-1, recommends approval of the proposed amendment of Ordinance No. 6951 and the Final Development Plan of Lot 4, Downtown Entertainment District Commercial Planned Unit Development District, to be known as the Final Development Plan of Lot 1 and Lot 2, Hilton Garden Inn, Downtown Entertainment District Commercial Planned Unit Development, to convert the ground floor of the proposed mixed use building to eight apartment units.
- February 19, 2013 City Commission approves first reading of an ordinance amending Ordinance No. 6951 and the Final Development Plan of Lot 4, Downtown Entertainment District Commercial Planned Unit Development District, to be known as the Final Development Plan of Lot 1 and Lot 2, Hilton Garden Inn, Downtown Entertainment District Commercial Planned Unit Development, as proposed.
- March 5, 2013 City Commission approves Ordinance No. 6993 amending Ordinance No. 6951 and the Final Development Plan of Lot 4, Downtown Entertainment District Commercial Planned Unit Development District, generally located on the southeast corner of S. 4<sup>th</sup> Street and Colorado Street, based on the findings in the Staff Report.
- 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.

*Attachment No. 1*

- November 4, 2013 Manhattan Urban Area Planning Board, on a vote of 7-0, recommends approval of the proposed amendment 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 projecting sign on the southeast corner of the Blue Earth Place mixed use building associated with a proposed Radina's Bakehouse.
- November 19, 2013 City Commission approves first reading of an ordinance amending Ordinance No. 6936 and the approved Final Development Plan of Lot 3, Downtown Entertainment District, Unit Three, Commercial Planned Unit Development (PUD) for a projecting sign on the southeast corner of the Blue Earth Place mixed use building associated with a proposed Radina's Bakehouse.
- December 3, 2013 City Commission approves Ordinance No. 7053 amending Ordinance No. 6936 and the approved Final Development Plan of Lot 3, Downtown Entertainment District, Unit Three, Commercial Planned Unit Development (PUD) for a projecting sign on the southeast corner of the Blue Earth Place mixed use building associated with a proposed Radina's Bakehouse.
- January 18, 2017 Manhattan Urban Area Planning Board, on a vote of 5-0, recommends approval of the proposed amendment of Ordinance No. 6804, 6936 and 7053 and the approved Final Development Plan of Lot 3, Downtown Entertainment District, Unit Three, Commercial Planned Unit Development (PUD) for a proposed comprehensive signage plan for the existing Blue Earth Place mixed use building.

**Staff Findings**

The subject property is vacant. And has been zoned PUD since 2009.

**9. Whether the Proposed District would be Consistent with the 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.

**Staff Findings**

The proposed zoning district is consistent with the intent and purpose of the zoning ordinance.

**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 that would result from Denial**

There appears to be no gain to the public health, safety and general welfare if this amendment is denied.

**Staff Findings**

There would be no relative gain to the public if this request is denied, and the owner would be denied use of their property.

**11. Whether Adequate Sewer and Water Facilities, Streets and other Needed Public Services Exist, or can be Provided, to Serve the Uses that would be Permitted by the Proposed Zoning District**

Adequate public water, sanitary sewer, and streets are currently available to serve the development.

**Staff Findings**

Adequate sewer and water facilities, streets and other needed public services currently exist to serve all permitted uses.

**12. Other Applicable Factors**

There are no other applicable factors.

**13. Staff Recommendation**

There are many factors to weigh when considering a recommendation of this amendment and final development plan to the Downtown Entertainment District, Unit Two Planned Unit Development. When examining the presented findings, adopted plans, and policies it is easy to see how subjective these matters are to interpretation. An argument can be made for or against this parking lot.

*Attachment No. 1*

For example, the Comprehensive Plan identifies a long-term goal for Downtown of achieving continued stability and vitality (CH 11). Will a new parking lot contribute to the stability and vitality of Downtown? It is hard to say yes when we already have over 200 under-utilized parking spaces in Downtown. But on the other hand, we have a vacant lot that is not being developed because of the current soft real estate market in Manhattan. Plus we have office space that is not able to keep its tenants. Allowing the development of a parking lot will increase the property tax revenue on the lot, and a strategically placed parking lot could help bring in new tenants.

But ultimately, this proposed amendment is for a temporary parking lot. The owner has every intention of marketing this property for development that matches the Preliminary Development Plan of this PUD. And when a prospective partner is found, the owner would like to, at that time, re-purpose the parking lot to allow for the development of a mixed-use building. Therefore, after weighing all the factors present, staff recommends approval of this amendment and Final Development Plan.

**Staff's Conclusion**

Based on the findings found in this Staff Report, City Administration recommends approval of the proposed PUD amendment and the Final Development Plan for the Downtown Entertainment District, Unit Two with the following conditions:

1. A temporary parking lot may be permitted on Lot 1 of the Downtown Entertainment District, Unit Two.
2. The temporary parking lot must meet the parking lot standards found in Article VII of the Manhattan Zoning Regulations.
3. The temporary parking lot, if constructed, must be constructed and landscaped as proposed, and a landscape performance agreement shall be provided between the applicant and the City.

**ALTERNATIVES**

1. Recommend approval of the proposed amendment of Ordinance No. 6804 and the Final Development Plan of Downtown Entertainment District, Unit Two, Planned Unit Development with conditions listed in the staff report, stating the basis for such recommendation.
2. Recommend approval of the proposed amendment of Ordinance No. 6804 and the Final Development Plan of Downtown Entertainment District, Unit Two, Planned Unit Development, and modify the conditions, and any other portions of the proposed PUD

*Attachment No. 1*

amendment, to meet the needs of the community as perceived by the Manhattan Urban Area Planning Board, stating the basis for such recommendation, and indicating the conditions of approval.

3. Recommend denial of the proposed amendment of Ordinance No. 6804 and the Final Development Plan of Downtown Entertainment District, Unit Two, Planned Unit Development stating the basis for such recommendation.
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. 6804, and the Final Development Plan of Lot 1, Downtown Entertainment District, Unit Two based upon the findings in the staff report with the three conditions recommended by City Administration.

**Prepared by:** Carol Davidson, CFM, CPM, Senior Planner

**Date:** February 6, 2017



# Staff Report

Community Development

## REZONING AMENDMENT

**To:** Manhattan Urban Area Planning Board

**From:** Carol Davidson, CFM, CPM, Senior Planner

**Hearing Date:** December 18, 2017

**Re:** Rezoning of 8.54 acres, the River Tract, of the Heritage Square North, Unit Two plat from Pottawatomie County CH, Highway Commercial District to C-5, Highway Service Commercial District

**Applicant:** Heritage Capital Investors, LLC

**Property Owner:** Heritage Capital Investors, LLC

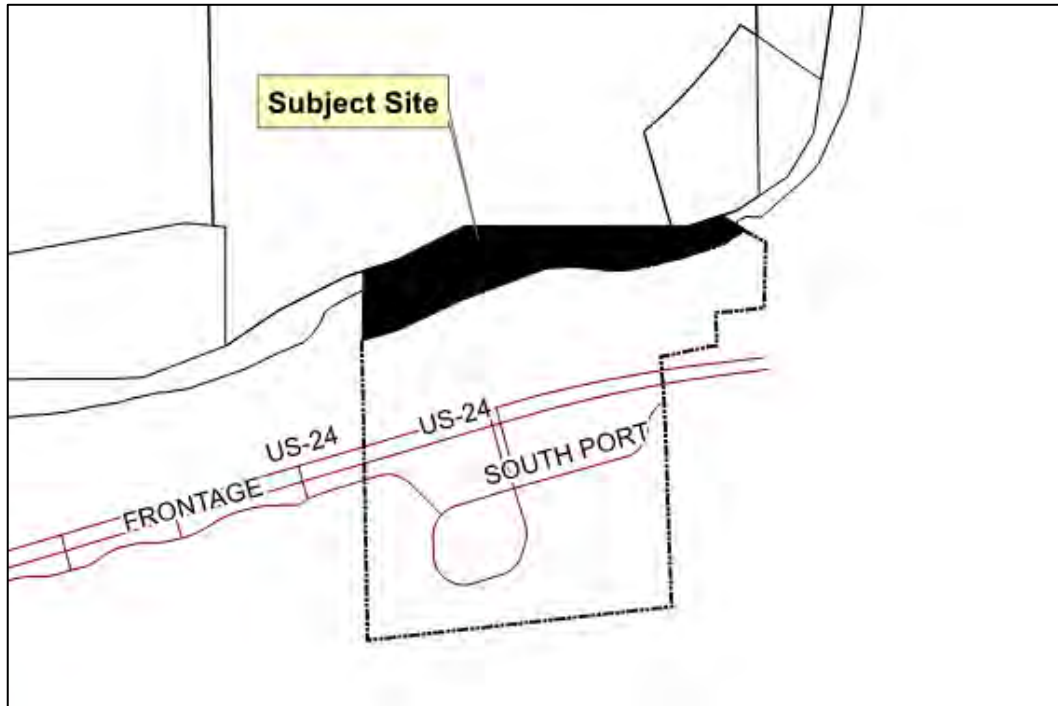
**Property Address:** River Tract, Heritage Square North, Unit Two; located at US 24 and South Port

**Total Area:** 8.54 acres

**Date of Neighborhood Meeting:** Not Applicable

**Date of Public Notice Publication:** November 27, 2017

**Date of City Commission:** TBD



## **BACKGROUND**

In February of 2007, Ordinance No. 6606 annexed the land commonly referred to as Heritage Square North (subject site) and Heritage Square South and the adjacent U.S. Highway 24 right-of-way into the City of Manhattan. And in November of 2016, Ordinance No. 7257 rezoned Heritage Square North to C-5, Highway Service Commercial District. However, following the rezoning and subdivision of the land, an error was discovered with the annexation and rezone of Heritage Square North. It was discovered that the River Tract (as shown on the Heritage Square, Unit Two Final Plat) was left out of the legal description; and therefore, was not annexed or rezoned. To correct this error, the applicant is here before the Planning Board to annex (see accompanying annexation report) and rezone the River Tract to C-5, Highway Service Commercial District.

When the original rezoning and subdivision request for this property was presented to the Planning Board in 2016, this tract was meant to be included. The error was discovered after the rezoning was approved. Staff did require a pre-meeting and a neighborhood meeting in 2016; however, for this particular request, staff did not require a pre-meeting or a neighborhood meeting. Staff felt it was not necessary and the neighborhood meeting might confuse the public. Nevertheless, legal notification was required and performed for this project.

## REVIEW OF MATTERS TO BE CONSIDERED AND STAFF FINDINGS

The following items will help to determine if the specific property is suitable for the rezoning request. (These are the 13 matters to consider when rezoning as found in Article 15-403 (A)).

### 7. Existing Use of Property

Vacant ground and riverine portions.

#### Staff Finding

The property is vacant; therefore, there is no use on these existing properties.

### 8. Physical and Environmental Characteristics of the Property

The subject site includes a steep bank adjacent to the Big Blue River and includes portions of the Big Blue River. Improvements on the stream bank have been done in the past to reduce erosion and stabilize the bank on the subject site.

The entire River Tract is currently located in the FEMA mapped Floodway and 1% Annual Chance Floodplain (100-year floodplain). If development were to occur on this tract, it would be required to meet all floodplain regulations.

#### Staff Finding

The property is within a floodway and would require floodplain measures with any type of development.

### 9. Surrounding Zoning and Land Uses of Nearby Properties

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

**SOUTH:** Vacant land within the C-5, Highway Service Commercial District.

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

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

**Staff Finding**

The surrounding zoning is composed of Commercial (City and County), and Residential (County) and the existing surrounding land uses are commercial, industrial, residential, and vacant land.

**10. The Suitability of the Property for Land Uses to which it is Restricted Under Current Zoning**

The subject site is in the process of being annexed into the City but carries a Pottawatomie County Zoning District at this time. If the annexation goes through, the site would not be able to be developed with a County Zoning District designation.

A restrictive covenant was submitted by the applicant at the time of the original annexation of Heritage Square North and agreed upon by the City Commission that before the property could be subdivided or built upon, the subject site would need to be rezoned. This rezoning request will fulfill the restrictive covenant that requires the entire property to be rezoned before development can begin.

**Staff Findings**

The subject site is not suitable for development within the City of Manhattan with the current Pottawatomie County Zoning designation.

**11. The Character of the Neighborhood**

The surrounding area is the commercial corridor along U.S. Highway 24. The uses range from older highway service commercial uses, such as new and used car dealerships and mechanics, to new highway service and retail uses along the corridor, especially in the Heritage Square South PUD. There is a small portion of the neighborhood, to the east, that includes residential lots and uses.

**Staff Findings**

The character of the neighborhood is a commercial corridor with a small amount of residential properties located to the north of the commercial properties.

**12. The Compatibility of the Proposed Zoning District with Nearby Properties and the Extent to which it may Detrimentally Affect Those Properties**

The proposed rezoning of the subject site will be compatible with surrounding properties and should have minimal detrimental effects on those properties. The surrounding property within the City is already zoned C-5, Highway Service Commercial District. The majority of the surrounding property within Pottawatomie

County are zoned CH, Commercial Highway which is a compatible use with the C-5 City zone. The residential properties within Pottawatomie County are separated from this site by a small creek which creates a natural barrier making any detrimental effects nominal.

**Staff Findings**

The proposed rezoning is compatible and will not have any detrimental effects on nearby properties.

**14. Conformance of the requested change to the adopted Comprehensive Plan**

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

**CC-1: Characteristics**

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

**CC-2: Location**

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

**CC-3: Size**

Typically require a site of between 10 and 30 acres.

#### CC-4: Unified Site Design

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

#### CC-5: Building Design and Character

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

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

#### CC-6: Organization of Uses

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

#### CC-7: Circulation and Access

Provide clear, direct pedestrian connections through parking areas to building entrances, to surrounding neighborhoods and streets, and transit stops. Integrate main entrances or driveways with the surrounding street network to provide clear

*Attachment No. 2*

connections between uses for vehicles, pedestrians, and bicycles. Provide a limited number of vehicle access points to minimize impacts on surrounding uses and maintain an efficient traffic flow to and from the site.

**CC-8: In fill and Redevelopment / Adaptive Reuse**

Encourage the revitalization and/or redevelopment of underutilized Community Commercial areas over time to take advantage of existing infrastructure and promote the efficient use of available land. Support opportunities to repurpose large surface parking lots typical of Community Commercial areas by incorporating additional pad sites for office or commercial uses or high density residential along the street edge. Support the adaptive reuse of existing buildings in older strip commercial centers on smaller lots where infill and redevelopment is less viable.

The Future Land Use Map is consistent with the C-5 zoning district. The Comprehensive Plan Land Use Policies are also consistent with this proposed C-5 zoning district, except for the size; however, this tract of land is part of a larger 32.51 acre site. The proposed rezoning conforms to the Comprehensive Plan.

**Staff Findings**

The proposed rezoning conforms to both the Future Land Use Map and the Land Use Policies of the Comprehensive Plan.

**15. Zoning History and Length of Time Vacant as Zoned**

- June 29, 2006: City of Manhattan receives requests for island annexation of the proposed Heritage Square North and Heritage Square South tracts from Roger Schultz and Rob Eichman.
- July 11, 2006: City Commission approves Resolution Nos. 071106-H & I, requesting the Board of Pottawatomie County Commissioners to make positive findings regarding the requested island annexation of Heritage Square North and Heritage Square South.
- July 27, 2006: Board of Pottawatomie County Commissioners makes positive findings regarding the island annexations of Heritage Square North and Heritage Square South.
- August 15, 2006: City Commission approves first reading of ordinances annexing Heritage Square North and Heritage Square South; and, approves Resolution No. 081506-A, requesting the Board of Pottawatomie

*Attachment No. 2*

County Commissioners to make positive findings regarding the island annexation of that portion of the US 24 Right-of-way that adjoins Heritage Square.

- August 18, 2006: City of Manhattan receives Consent to Annexation from the Kansas Department of Transportation for that portion of the US Highway 24 right-of-way that adjoins Heritage Square South, consisting of 6.791 acres.
- August 21, 2006: Board of Pottawatomie County Commissioners makes positive findings regarding the island annexation of that portion of the US Highway 24 right-of-way that adjoins Heritage Square South.
- October 16, 2006; Manhattan Urban Area Planning Board holds public hearing and recommends approval (7-0), of the rezoning the proposed Heritage Square South and the adjoining US Highway 24 right-of-way from County - CH, Highway & Commercial Corridor District, to PUD, Commercial Planned Unit Development District.
- November 7, 2006 City Commission approved first reading of an ordinance annexing the 6.8 acre portion of the US Highway 24 right of way that adjoins the Heritage Square South development; and, approved first reading of an ordinance rezoning the proposed Heritage Square South development and the adjoining portion of US Highway 24 right-of-way, to PUD, Planned Unit Development District.
- February 6, 2007 City Commission approves Ordinance No. 6606 annexing proposed Heritage Square North, proposed Heritage Square South and the 6.8 acre portion of the US Highway 24 right of way that adjoins Heritage Square South; and, approved Ordinance No.6607 rezoning the Heritage Square South and the adjoining portion of US Highway 24 right-of-way, to PUD, Commercial Planned Unit Development District.
- October 3, 2016 Manhattan Urban Area Planning Board recommends approval of the proposed rezoning of Heritage Square North from Pottawatomie County CH, Highway Commercial District, to C-5, Highway Service Commercial District; and, approved the Preliminary Plat for Heritage Square North with six (6) conditions of approval.



*Attachment No. 2*

- October 18, 2016 City Commission approves first reading of an ordinance rezoning Heritage Square North, a 32.5 acre tract from Pottawatomie County CH, Highway Commercial District, to C-5, Highway Service Commercial District.
- November 1, 2016 City Commission approves Ordinance No. 7257 rezoning Heritage Square North, a 32.5 acre tract from Pottawatomie County CH, Highway Commercial District, to C-5, Highway Service Commercial District.
- January 19, 2017 Manhattan Urban Area Planning Board approves the Final Plat of Heritage Square North, based on conformance with the Manhattan Urban Area Subdivision Regulations.
- February 7, 2017 City Commission accepts the easements and rights-of-way as shown on the Final Plat of Heritage Square North.
- March 20, 2017 Manhattan Urban Area Planning Board approves to set aside the Heritage Square North, approved by the Manhattan Urban Area Planning Board on approved on January 19, 2017, and recommends that the revised the Final Plat of the Heritage Square North, Unit Two be approved, based on conformance with the Manhattan Urban Area Subdivision Regulations.
- April 4, 2017 City Commission accepts the easements and rights-of-way as shown on the Final Plat of Heritage Square North, Unit Two.

**Staff Findings**

The subject property has been a Pottawatomie County CH Zoning Designation but has been and remains vacant as it is now.

**16. Whether the Proposed District would be Consistent with the Intent and Purpose of the Zoning Ordinance**

The intent and purpose of the Zoning Regulations is to protect the public health, safety, and general welfare; regulate the use of land and buildings within zoning districts to assure compatibility; and to protect property values.

The C-5, Highway Service Commercial District (regulations attached) is designed to provide for businesses offering accommodations, supplies, or services to motorists,

*Attachment No. 2*

and for certain specialized activities which may require access to major streets and highways. Since this tract is located entirely within a floodway, any development will be required to meet the Development Standards found in Article 10, Part 2 (Floodplain Regulations) of the Manhattan Zoning Regulations. In effect, any change to this land, including fill will need to go through a permitting process to ensure there will be no adverse effects to the floodway or floodplain.

The proposed rezoning will establish a City Zoning District that is similar in use and development standards to the adjacent properties along the U.S. Highway 24 Corridor. This district will protect the public health, safety, and general welfare; is generally compatible, and staff did not receive any evidence as to the impact of the proposed rezoning on the property values. The proposal is consistent with the intent of the C-5 District regulations.

**Staff Findings**

The proposed zoning district is consistent with the intent and purpose of the zoning ordinance.

**17. Relative Gain to the Public Health, Safety and Welfare that Denial of the Request Would Accomplish, Compared with the Hardship Imposed upon the Applicant that would result from Denial**

There does not appear to be an adverse impact on the public health, safety and general welfare as a result of the rezoning. The proposed rezoning will allow uses and a development pattern that is consistent to the existing uses in the area. However, as mentioned above, any development will be required to adhere to the Floodplain regulations found in Article 10 of the Zoning Regulations. This proposed rezoning will honor the owner's right to use this property, as it would not be allowed to be developed upon with a county zoning designation.

**Staff Findings**

There would be no relative gain to the public if this request is denied, and the owner would be denied use of their property if the request is denied due to the current zoning designation being part of the City.

**18. Whether Adequate Sewer and Water Facilities, Streets and other Needed Public Services Exist, or can be Provided, to Serve the Uses that would be Permitted by the Proposed Zoning District**

Adequate public facilities and services are available to serve the site. Intersection improvements and improvements to the public utilities are being completed to provide adequate services to the commercial development. Sewer and water are available to the buildable lots within the subdivision.

**Staff Findings**

Adequate sewer and water facilities, streets and other needed public services currently exist to serve all permitted uses of the proposed zoning district.

**19. Other Applicable Factors**

There are no other applicable factors.

**20. Staff Recommendation**

For this rezoning request, staff finds the property is suited for the proposed C-5 District based on several factors. First of all, the Heritage Square North subdivision has applied and was approved to be rezoned to the C-5 zoning designation. In addition, the surrounding neighborhood along the US 24 corridor is zoned a compatible County zoning designation. This proposed district is compatible with nearby properties and the character of the neighborhood, and should not have any detrimental effects. And furthermore, it is compatible with the Future Land Use map and land use policies of the Comprehensive Plan. And finally, staff finds that this proposed zoning district is consistent with the intent and purpose of the Zoning Ordinance.

**Staff's Conclusion**

Based on the findings found in this Staff Report, City Administration recommends approval of the proposed rezoning of the River Tract of the Heritage Square North, Unit Two plat from HC, Highway Commercial (Pottawatomie County) to C-5, Highway Service Commercial District.

**ALTERNATIVES**

1. Recommend approval of the proposed rezoning of the River Tract of the Heritage Square North, Unit Two plat from Pottawatomie County HC, Highway Commercial to C-5, Highway Service Commercial District based upon the findings in the staff report. (If your approval is also based upon evidence presented at the hearing, or other evidence, that should be state as part of your vote.)
2. Recommend denial of the proposed rezoning, stating the specific reasons for denial based upon the factors set forth herein.
3. Table the proposed rezoning to a specific date, for specifically stated reasons.

## **POSSIBLE MOTION**

The Manhattan Urban Area Planning Board Recommend approval of the proposed rezoning of the River Tract of the Heritage Square North, Unit Two plat from Pottawatomie County CH, Highway Commercial to C-5, Highway Service Commercial District based upon the findings in the staff report.

**Prepared by:** Carol Davidson, CFM, CPM, Senior Planner of the Community Development Department

**Date:** December 11, 2017

**Enclosures:**

- Heritage Square North, Unit Two plat
- Future Land Use Map of the Comprehensive Plan
- C-5, Highway Service Commercial District Zoning Regulations