

MINUTES
SPECIAL CITY COMMISSION MEETING
TUESDAY, FEBRUARY 8, 2011
7:00 P.M.

The Special Meeting of the City Commission was held at 7:00 p.m. in the City Commission Room. Mayor Bruce Snead and Commissioners James E. Sherow, Loren J. Pepperd, Jayme Morris-Hardeman, and Bob Strawn were present. Also present were the City Manager Ron R. Fehr, Assistant City Manager Jason Hilgers, Assistant City Manager Lauren Palmer, City Attorney Bill Frost, City Clerk Gary S. Fees, 9 staff, and approximately 120 interested citizens.

PLEDGE OF ALLEGIANCE

Mayor Snead led the Commission in the Pledge of Allegiance.

RECOGNITION

Mayor Snead and Parks and Recreation Director Curt Loupe recognized representatives from the Konza and Manhattan Rotary Clubs for their generous gift of funds to purchase new ice skates for the ice rink in the Wefald Pavilion.

PROCLAMATIONS

Mayor Snead proclaimed February 6-12, 2011, ***Career-Technical Education Week***. Dr. Robert Edleston, President and Chief Executive Officer, Manhattan Area Technical College, was present to receive the proclamation.

Mayor Snead proclaimed February 2011, ***American Heart Month***. John Broberg, President and Chief Executive Officer, Mercy Regional Health Center, and Belinda Snyder, Chair, and committee members of A Dress the Heart Gala Committee, were present to receive the proclamation.

PUBLIC COMMENTS

Mayor Snead opened the public comments.

PUBLIC COMMENTS (*CONTINUED*)

Gina Scroggs, Executive Director, Downtown Manhattan, Inc., and Brent Bowman, Bowman Bowman Novick Architects, requested that the Commission consider moving forward with the proposal and scope of work for the improvements envisioned for the core Downtown area.

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

COMMISSIONER COMMENTS

Commissioner Sherow informed the public about the beam signing ceremony today at the National Guard Armory for the Flint Hills Discovery Center and commended City crews for keeping the streets plowed and safe during the recent snow storms.

CONSENT AGENDA

(* denotes those items discussed)

MINUTES

The Commission approved the minutes of the Regular City Commission Meeting held Tuesday, January 18, 2011.

CLAIMS REGISTER NOS. 2660 and 2661

The Commission approved Claims Register Nos. 2660 and 2661 authorizing and approving the payment of claims from January 12, 2011, to January 25, 2011, in the amounts of \$1,872,838.12 and \$2,126,922.17, respectively.

LICENSE

The Commission approved an annual Cereal Malt Beverage Off-Premises License for Wal-Mart Store, 101 East Bluemont Avenue.

* ORDINANCE NO. 6877 – REZONE – 2216 CLAFLIN PUD

Rob Ott, City Engineer, responded to questions from the Commission and provided additional information on the item.

Wanda McVey, 1419 Hartford Road, voiced concern with the drainage and storm water runoff. She questioned the proposed rezoning and was concerned with the loss of open space if the apartment complex is allowed to be built at this location. She also voiced concern in providing adequate parking and having sufficient waste water lines.

CONSENT AGENDA (CONTINUED)

* **ORDINANCE NO. 6877 – REZONE – 2216 CLAFLIN PUD (CONTINUED)**

Leo Converse, 13945 Booth Creek Road, Olsburg, Kansas, informed the Commission that his mother lives on University Drive and has concerns with the proposed development; especially, issues associated with parking and the high number of units proposed on the property.

After discussion, the Commission overrode the recommendation of the Manhattan Urban Area Planning Board by removing Condition 7, and approved Ordinance No. 6877 rezoning the proposed 2216 Claflin Residential PUD, generally located at 2216 Claflin Road, from R-1/UO, Single-Family Residential District with University Overlay District, to PUD, Residential Planned Unit Development, based on the findings in the Staff Report (*See Attachment No. 1*) with the original six conditions recommended by City Administration.

ORDINANCE NO. 6878 – AMEND ZONING ORDINANCE – HOME OCCUPATIONS

The Commission approved Ordinance No. 6878 amending the Manhattan Zoning Regulations, Article V, Accessory Uses, Temporary Uses, Home Occupations, PART 3, Home Occupations, to permit Home Occupations in a Manufactured Home or Mobile Home; and, to modify the term, Home Occupation, in Article XVI, Construction and Definitions, PART 2, Definitions, Section 16-201, as proposed, based on the findings in the Staff Memorandum (*See Attachment No. 2*), as recommended by the Manhattan Urban Area Planning Board.

ORDINANCE NO. 6879 – SILVER PARKING PERMIT ZONE – KANSAS STATE UNIVERSITY FOUNDATION AREA

The Commission approved Ordinance No. 6879 establishing a parking permit area around the Kansas State University Foundation Building including both sides of the street on Bellehaven Road, Lookout Drive, Wildcat Ridge Road, Indian Mound Lane, Timberlane Drive, Karla Lane, Michael Road, and Willard Place.

CHANGE ORDER NO. 3 – DISCOVERY CENTER – SOUTH PARK

The Commission approved Change Order No. 3 to the Discovery Center contract with McCownGordon Construction, of Kansas City, Missouri, to accommodate their construction management services for the South Park project for a fee of \$6,000.00.

* **CHANGE ORDER NO. 4 – DISCOVERY CENTER – TERRAZZO FLOOR**

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

CONSENT AGENDA (CONTINUED)

- * **CHANGE ORDER NO. 4 – DISCOVERY CENTER – TERRAZZO FLOOR**
The Commission approved Change Order No. 4 to the Guaranteed Maximum Price for the Discovery Center to fund the upgrade of stained concrete to terrazzo, in the not to exceed amount of \$63,000.00 to the contract with McCownGordon Construction, of Kansas City, Missouri.

AWARD CONTRACT – HOUSING REHABILITATION PROGRAM

The Commission accepted the bids for 1009 Colorado Street and 442 Shelle Road; awarded the bids to the lowest responsible bidders; authorized the Mayor and City Clerk to enter into agreements with the contractors and property owners for expenditure of Housing Rehabilitation Funds; and authorized City Administration to approve any necessary change orders.

OUTSIDE CITY WATER SERVICES AGREEMENT – 4240 FORT RILEY BOULEVARD

The Commission authorized the Mayor and City Clerk to execute an agreement permitting connection to the City of Manhattan's public water supply system, by Nick and Stacy Roberts, for the real estate located at 4240 Fort Riley Blvd, Riley County, Kansas.

- * **AMENDMENT TO CONTRACT – FLINT HILLS AREA TRANSPORTATION AGENCY**

Anne Smith, Director, Flint Hills aTa, provided additional information on the item and responded to questions from the Commission regarding ownership of the buses, funds received, and support provided from Riley County. She also provided clarification that the Kansas State University students are riding the buses and have a contract for the Safe Ride program.

The Commission approved an Amendment to the 2011 Donation Contract with Flint Hills Area Transportation Agency in the amount of \$46,904.00 to facilitate the purchase of three buses to serve a fixed-route transit system in the City of Manhattan.

- * **MEMORANDUM OF UNDERSTANDING – USD 383 BUS RENTAL SERVICE**

Ron Fehr, City Manager, responded to questions from the Commission.

Curt Loupe, Director of Parks and Recreation, provided additional information on the item and informed the Commission that the City does not spend money for this service.

CONSENT AGENDA (CONTINUED)

* **MEMORANDUM OF UNDERSTANDING – USD 383 BUS RENTAL SERVICE (CONTINUED)**

The Commission approved and authorized the Mayor and City Clerk to execute the proposed Memorandum of Understanding, thus extending bus rental service with USD 383 another three years.

* **BOARD APPOINTMENTS**

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

Douglass Center Advisory Board

Appointment of Constance M. Birdsong, 811 Yuma Street Apt. B, to fill the unexpired Geographic term of Sara Weber. Ms. Birdsong's term begins immediately, and will expire October 2, 2012.

Flint Hills Discovery Center Advisory Board

Appointment of Suzan Barnes, 215 Broadway Street, Cottonwood Falls, to a three-year Non-resident term. Ms. Barnes' term begins immediately and will expire January 31, 2014.

Appointment of Sharon Brookshire, 2029 Judson Avenue, to a two-year Resident's term. Ms. Brookshire's term begins immediately and will expire January 31, 2013.

Appointment of Mike Haddock, 741 Canfield Drive, to a two-year Resident's term. Mr. Haddock's term begins immediately, and will expire January 31, 2013.

Housing Authority Board of Commissioners

Re-appointment of Ida Jane Leupold, 301 Brookvalley Drive, to a four-year Resident's term. Ms. Leupold's term will begin March 4, 2011, and will expire March 3, 2015.

Human Rights and Services Board

Re-appointment of Kerry Wefald, 3428 Churchill Street, to a three-year term. Ms. Wefald's term will begin March 10, 2011, and will expire March 9, 2014.

After discussion, Commissioner Sherow moved to approve the consent agenda, as read, with the understanding that Item D, ORDINANCE NO. 6877 – REZONE – 2216 CLAFLIN PUD, will be carefully monitored for its performance. Commissioner Morris-Hardeman seconded the motion.

CONSENT AGENDA (*CONTINUED*)

After additional discussion, on a roll call vote, motion carried 5-0, with the exception of Item M, BOARD APPOINTMENTS, which carried 4-1 with Commissioner Strawn voting against the item.

GENERAL AGENDA

ORDINANCE NO. 6880 – AMEND - DISCRIMINATION ORDINANCE

Mayor Snead provided an overview on the process for the item, guidelines, and ground rules for public comment.

Katie Jackson, Assistant City Attorney, presented the proposed changes to the ordinance, including definition of employer, definition of gender identity, definition of religious organization, definition of sexual orientation, exemption added to Unlawful Employment Practices, exemptions added to Unlawful Public Accommodations Practices, and Employment/Public Accommodations exemption for gender identity. She then responded to questions from the Commission on the complaint procedure process and appeal process.

After discussion, Katie Jackson, Assistant City Attorney, presented an overview on the protected classes within each context for employment, public accommodations, and housing; when an employer can be held liable for employment discrimination; and presented a flowchart when a religious organization can be liable for housing discrimination. She then responded to additional questions from the Commission on the proposed ordinance, comparisons and consistency with Kansas laws relating to discrimination, and proposed changes in the ordinance for religious organizations.

Donna Lepold, Director, Kansas Family Policy Council, Wichita, Kansas, asked the Commission that if a person owns a Christian bookstore with five or more employees with religious convictions and will not hire a lesbian, gay, bisexual, or transgender (LGBT) person, would they be in violation. She voiced concerns with the potential of lawsuits for schools in dealing with gender identity.

Susan Gerth, 2213 Alta Drive, President, Flint Hills Parents, Families, and Friends of Lesbians and Gays (PFLAG), informed the Commission that now is the time to pass this ordinance and extend full rights and protections to all persons. She informed the Commission about her transgender daughter and the rejection received from her other children and was not able to see their granddaughter. She stated that discrimination does exist with transgender persons and encouraged the Commission to support the ordinance.

GENERAL AGENDA (CONTINUED)

ORDINANCE NO. 6880 – AMEND - DISCRIMINATION ORDINANCE (CONTINUED)

Richard Hill, 3513 Stagecoach Circle, informed the Commission that he was concerned as a landlord in dealing with this ordinance and voiced several concerns with the proposed ordinance. He stated that he was also concerned with a quasi-judicial board of volunteers who do not have the proper training or education, making these decisions on whether discrimination actually occurred or if it was perceived discrimination.

Lora Boyer, 211 North 15th Street, thanked the Commission and City staff for their work. She stated that the expressions have been based on fear for many and believed that if discrimination protection is given, more people will be more open and become more acquainted with other people different from them. She asked the Commission to pass the ordinance.

Amy Northcutt, 1222 Marlatt Avenue, spoke on behalf of Stephanie Mott, Executive Director, Kansas Statewide Transgender Education Project, who was unable to attend the meeting due to the bad weather. Ms. Northcutt provided background information on the item and stated that protections are already in place in the United States and encouraged the Commission to support the ordinance.

Jonathon Mertz, 34107 Highway K-18, Chair, Flint Hills Human Rights Project, suggested several changes to the proposed ordinance regarding gender identity and the exceptions for gender identity discrimination in employment and public accommodations. He stated that he believed this is a solid ordinance at this time and is very close to what the Flint Hills Human Rights Project has requested. He thanked City staff, the Commission, and all those involved in the process.

Troy Nave, 2916 Sunnyside Drive, informed the Commission that he was neither pro or con on the item, but asked how much this would cost to implement and the potential costs for litigation.

Walter Schumm, 5900 Lake Elbo Road, provided a handout to the Commission and voiced concerns with the sociological behavioral differences between heterosexual and LGBT people. He stated if this ordinance is approved, do we really want to establish a social approval of this in our society. He said we need to understand that this is complicated and family cases are complicated.

Bill Pugh, 212 Carlisle Terrace, asked about the referenced exemption of Boy Scouts and asked who needs a program like scouting more than a kid that is different.

GENERAL AGENDA (CONTINUED)

ORDINANCE NO. 6880 – AMEND - DISCRIMINATION ORDINANCE (CONTINUED)

Samuel Brinton, 331 North 17th Street, thanked everyone for their work on the ordinance. He informed the Commission that he was in support of the ordinance and appreciated the protection of K-State students.

Josh McGinn, 724 Poyntz Avenue, stated that he supported the proposed ordinance and stressed the importance to treat all people equally. He informed the Commission that he believes that the primary responsibility of government is to prevent harm and that discrimination is harm. He stated that hundreds of other communities have passed a similar ordinance and spending a little money is well worth the cost of justice for the prevention of discrimination. He thanked everyone for their work on this and thanked the Commission for their service.

Nate Wilson, 2488 Woodside Lane, informed the Commission that he believes that this proposed law stands in opposition to the written word of God in the Bible. He encouraged the Commission to not pass the proposed ordinance.

Katie Jackson, Assistant City Attorney, provided clarification on the proposed ordinance and responded to questions regarding the definition of employer, public accommodation, definition of gender identity, consistencies in the proposed ordinance with Kansas law, qualifications and education to serve on the local human rights commission, controlled substance violations, potential costs associated with the adoption of this ordinance based on the level of complaints, hearing process and procedures, timeframe to establish a local human rights commission, and reiterated that the proposed ordinance shall be effective on September 1, 2011.

Bill Frost, City Attorney, responded to questions from the Commission regarding potential lawsuits against board members or a board. He stated that the City's liability policy would cover staff, Commission, board members, either individually or collectively, if working within their purpose and scope of job or role as a board member.

Katie Jackson, Assistant City Attorney, responded to questions of the Commission regarding "continuing" and "gender identity" and the list of example facilities. She stated that every case must be evaluated on its merits. She then responded to additional questions from the Commission and provided clarification on the item.

After discussion of the Commission on the proposed ordinance and recommendations, the consensus was to remove the examples of facilities from the definition.

Katie Jackson, Assistant City Attorney, responded to the suggested ordinance edits and changes requested.

GENERAL AGENDA (CONTINUED)

ORDINANCE NO. 6880 – AMEND - DISCRIMINATION ORDINANCE (CONTINUED)

After additional discussion, Commissioner Morris-Hardeman moved to approve Ordinance No. 6880 modifying the Discrimination Ordinance to include sexual orientation and gender identity to the protected class list in Manhattan, Kansas. Commissioner Sherow seconded the motion.

Commissioner Strawn voiced opposition to the ordinance and stated that he did not think the ordinance was beneficial to the community or appropriate. He stated that if we are going to create these types of laws, it is best to create them here. He said there are options for those opposed to this ordinance and that three new City Commissioners will be elected in April. He complimented the three Commissioners for their conviction on this item and the civility of the process, but strongly disagreed with the passage of this ordinance.

Commissioner Pepperd agreed with Commissioner Strawn and said that he was not in support of the ordinance. He stated that the ordinance is still ambiguous and that the Manhattan Area Chamber of Commerce, USD 383, Riley County, Pottawatomie County, and many religious organizations do not want this ordinance. He also voiced concern in elevating the responsibility of the Human Rights and Services Board to a quasi-judicial board, which would need to understand the intricacies of the ordinance to conduct a fair ruling if a complaint of discrimination goes to a hearing. He reiterated that he would not vote for the ordinance.

Commissioner Morris-Hardeman thanked everyone for their participation and City staff and Assistant City Attorney Katie Jackson for their work. She stated that the ordinance is an issue of basic civil rights and equal protection under the law for all people being discriminated against. She said that passing this ordinance might not have been the most popular option, but it was the right option. She also stated that everyone should have protections from discrimination and that protections are already in place at Kansas State University and was pleased to vote yes on this ordinance.

Commissioner Sherow stated this is a civil rights issue and thanked the public and City staff for their involvement and work. He provided additional information on the item and a perspective on the civil rights movement. He stated that we are dealing with public accommodations. He also stated that being an open and affirming community demonstrates our desire to be a community that individuals and companies want to move to, citing examples of companies and employees considering relocating to Manhattan and students attending Kansas State University. He reiterated that this ordinance is about providing basic civil rights.

GENERAL AGENDA (CONTINUED)

ORDINANCE NO. 6880 – AMEND - DISCRIMINATION ORDINANCE (CONTINUED)

Mayor Snead expressed appreciation to everyone that participated and to City Administration for their work, especially, Katie Jackson, Assistant City Attorney. He informed the community that this ordinance is about equal rights and the evidence is sufficient and warranted for this ordinance. He stated that if the Commission does not take the necessary steps to enable equal rights, discrimination will continue to occur. He shared a couple of messages received from individuals that have been discriminated against and stated that with this ordinance, we have a local process to handle a complaint in a fair and open way. He stated that majority votes on minority rights has never happened and is a responsibility of government. He reflected on hearing Martin Luther King's speech replayed at Kansas State University recently, advocating civil rights for all and provided a quote from his speech. He said that passage of this ordinance is the right thing to do.

Paul Barkey, 2514 Nutmeg, asked if there would be a third reading on the ordinance.

Mayor Snead stated that this is the second and final reading of the ordinance.

After additional discussion, on a roll call vote, motion carried 3-2, with Commissioners Pepperd and Strawn voting against the motion.

At 10:05 p.m., the Commission took a brief recess

FIRST READING – AMEND RESIDENCY REQUIREMENTS – FLINT HILLS DISCOVERY CENTER ADVISORY BOARD

Lauren Palmer, Assistant City Manager, presented the item.

Mayor Snead provided an overview on the purpose of the Flint Hills Discovery Center Advisory Board. He said the policy change for this particular Advisory Board makes sense in order to tap a broader pool of individuals and provide greater flexibility to find capable people to serve. He asked for the Commission to consider the proposal.

Commissioner Strawn voiced concerns with the proposed changes to the existing ordinance. He urged the Commission to leave the ordinance as originally approved, with at least four of the Advisory Board members being residents of the City of Manhattan.

GENERAL AGENDA (CONTINUED)

FIRST READING – AMEND RESIDENCY REQUIREMENTS – FLINT HILLS DISCOVERY CENTER ADVISORY BOARD (CONTINUED)

Commissioner Pepperd stated that he was concerned with the costs per year of the Discovery Center and said that people living in the city limits of Manhattan and paying city taxes, will be bearing those costs and should be comprised of the majority of the Advisory Board. He stated that the fourth significant connection listed in the proposed ordinance, “any other factor approved by the Commission,” was too open ended and could not support the suggested changes.

The Commission discussed how much, if any, authority the Advisory Board would have on the Discovery Center budget and recommendations regarding exhibits.

Ron Fehr, City Manager, provided additional information on the budget process, Capital Improvements Program, and responsibilities of the Advisory Board and City staff.

Commissioner Strawn stated that there are four qualified people that are Manhattan residents to serve on this Advisory Board. He reiterated that this is a Manhattan facility and we should have four Manhattan citizens sitting on this Advisory Board.

Mayor Snead stressed the importance of having individuals that are ready and willing to serve on the Advisory Board, with knowledge to help make the facility successful. He identified other revenue fund sources that will be paying for the Discovery Center, beyond residents of Manhattan.

Bill Muir, 2040 Shirley Lane, informed the Commission that it still takes three Commissioners to confirm any appointment made by the Mayor and three Commissioners to reject it.

Commissioner Sherow stated that we can reject or endorse any appointment proposed to the Discovery Center Advisory Board. He provided examples of other board and committee members that work in Manhattan, but live outside the city limits. He stated that he was inclined to provide more structural flexibility, rather than less, and if it is not working, we can come back and change it.

Commissioner Morris-Hardeman informed the Commission that people serving on the Advisory Board must be passionate about the Flint Hills and the Discovery Center. She stated that the Advisory Board can provide recommendations or make a capital improvements request. She requested that significant connection number four, “any other factor approved by the Commission,” be deleted to the composition section of the proposed ordinance.

GENERAL AGENDA (CONTINUED)

FIRST READING – AMEND RESIDENCY REQUIREMENTS – FLINT HILLS DISCOVERY CENTER ADVISORY BOARD (CONTINUED)

Bill Frost, City Attorney, provided clarification on the item and requirements for Advisory Board members.

After additional discussion of the Commission, Commissioner Sherow requested that if all things being equal, that a preference would be given to residents living in the city limits.

Commissioner Pepperd and Mayor Snead concurred with Commissioner Morris-Hardeman that the fourth item, “any other factor approved by the Commission,” should be eliminated and provided additional comments on the item.

Bill Frost, City Attorney, informed the Commission that based on the feedback received tonight, the proposed ordinance for second reading would be modified to state that a majority of the Board must: 1) be a resident of the city of Manhattan; or, 2) own real property within the city of Manhattan; or, 3) own, operate, or be employed by a business or entity which has a principal place of business within the city.

After discussion, Commissioner Morris-Hardeman moved to approve first reading of an ordinance requiring that at least four members of the Flint Hills Discovery Center Advisory Board must meet one of the three criteria described. Commissioner Sherow seconded the motion.

After additional discussion of the Commission, on a roll call vote, motion carried 3-2, with Commissioners Pepperd and Strawn voting against the motion.

FIRST READING – ESTABLISH - CITY COMMISSION TERM LIMITS

Lauren Palmer, Assistant City Manager, introduced the item.

Austin St. John, City Manager’s Office Intern, presented the item and responded to questions from the Commission.

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

Michael Lambert, 800 Ratone Street, stated that he has observed the City Commission for decades and was strongly opposed to term limits. He said the emphasis should be to encourage more people to serve.

Debbie Nuss, 1419 Humboldt Street, speaking on behalf of the Riley County-Manhattan League of Women Voters, spoke in opposition of term limits of City Commissioners and stated that a better option is to recruit candidates and educate the electorate.

GENERAL AGENDA (CONTINUED)

FIRST READING – ESTABLISH - CITY COMMISSION TERM LIMITS (CONTINUED)

Mayor Snead provided a historical perspective of City Commissioner terms of service since 1954, with the average years of service at 5.2 years as a City Commissioner. He stated that term limits are not needed in local government for Manhattan.

John Matta, 1213 Greystone Place, informed the Commission that for the U.S. President, term limits were made for only one person.

Commissioner Strawn provided additional background information on term limits and the importance of term limits. He encouraged the Commission to put in place a policy with term limits to promote diversity. He stated that this would create governance open for more people to participate. He reiterated his position to establish term limits for the Commission and said there are a ton of good people in Manhattan to serve.

After discussion and clarification on the possible motions, Commissioner Strawn moved to approve first reading of an ordinance to establish that no person shall be eligible to hold the office of City Commissioner who has served in such capacity for eight (8) or more consecutive years within the past ten (10) years.

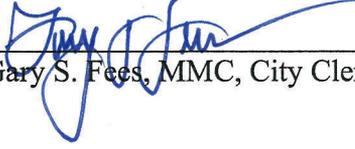
Bill Frost, City Attorney, provided clarification on statutory terms of office and provided assistance on the motion.

After discussion, Commissioner Pepperd seconded the motion.

After additional discussion of the Commission, on a roll call vote, motion failed 2-3, with Mayor Snead and Commissioners Sherow and Morris-Hardeman voting against the motion.

ADJOURNMENT

At 11:34 p.m., the Commission adjourned.



Gary S. Fees, MMC, City Clerk

STAFF REPORT

**APPLICATION TO REZONE PROPERTY TO PLANNED UNIT
DEVELOPMENT DISTRICT**

BACKGROUND

FROM: R-1/OU, Single-Family Residential District and University Overlay District

TO: PUD, Residential Planned Unit Development

OWNER: G. "Hal" Ross and Mary Lou Ross

ADDRESS: 100 N. Broadway, Suite 455, Wichita, KS 67202

APPLICANT: Elsey Partners

ADDRESS: 2052 Hunting Avenue, Manhattan, KS 66502

DATE OF PUBLIC NOTICE PUBLICATION: Monday, October 25, 2010

DATE OF PUBLIC HEARING: PLANNING BOARD: Monday, November 15,
2010, and tabled to Monday, December 6, 2010.

CITY COMMISSION: Tuesday, December 7, 2010

LOCATION: Lot 1, Phi Delta Theta Addition. Generally located north of Claflin Road
and 150 feet west of the intersection of Hartford Road and Claflin Road.

AREA: 116,568 square feet (2.68 acres)

PROPOSED USES: The proposed uses are single-family attached residential units. The applicant indicates that the target market is focused on students attending Kansas State University. The application documents state the initial plans are to rent the single-family attached dwellings and then sell individual units when the housing market conditions change. The proposed preliminary plan represents the long term plan of selling the individual units by initially establishing "condominium units" to be sold in the future. The initial plan of renting the dwellings is still possible as proposed with the preliminary plan. The remaining area will be common area. A restrictive covenant will need to be finalized prior to the Final Development Plan detailing how the common areas is owned and maintained.

Attachment No. 1

PROPOSED BUILDINGS AND STRUCTURES: The single-family attached development consists of a total of twenty-nine (29) dwelling units within seven (7) buildings. The buildings are described as single-family attached dwelling units because of the construction of the buildings. Twenty-five (25) of the dwelling unit will have four (4) bedrooms. Four (4) of the units will have one (1) bedroom. The one bedroom units are Units 7, 13, 22 and 29.

Each building will be approximately twenty-six (26) feet tall, measured to the peak of the roofline. Building materials will consist of vinyl lap siding, manufactured limestone veneer and asphalt shingles. The description on the architectural plans shows that the vinyl siding will be clay color.

The building setbacks of the site are approximately twenty-nine (29) feet from the front property line along Claflin Road, approximately thirty-three (33) feet from the side property line to the west, approximately twenty-three (23) feet from the north property line, and approximately twenty-four (24) feet from the east side property line.

The site gains access from a new twenty-six (26) foot wide curb cut off of Claflin Road (measured at the property line). The existing curb cut will be abandoned and be replaced with curb and gutter.

PROPOSED LOT COVERAGE

<u>Use</u>	<u>Square Feet</u>	<u>Percentage</u>
Buildings	27,100	23.0%
Driveways/Parking	40,747	35.0%
Landscape Areas	48,721	42.0%

PROPOSED SIGNS: No signs are proposed with the residential development. Exempt signs for addressing and similar exempt signs will be permitted.

PROPOSED LIGHTING: Proposed lighting consists of pedestrian scale lighting located at the front door of each dwelling unit. No pole lighting is proposed to illuminate the parking lot.

REVIEW CRITERIA FOR PLANNED UNIT DEVELOPMENTS

Attachment No. 1

1. LANDSCAPING: The landscape plan consists of deciduous and evergreen trees and shrubs. Evergreen trees, deciduous canopy trees and ornament grasses are planned in a landscape berm in the front yard along Claflin Road. The landscape berms are to be one (1) to three (3) feet in height. Foundation planting in front of each dwelling unit consists of grass areas, ornamental grasses and evergreen shrubs. Deciduous and evergreen trees are to be planted behind the structures for screening and buffering of the development from the adjacent residential properties. These trees are shown to be outside of the drainage and utility easements. The legend on the landscape plan states that these deciduous trees will reach a mature height of thirty-five (35) to seventy (70) feet. Evergreen shrubs are proposed to screen the parking areas between the two (2) southern buildings. Other areas throughout the development site will be lawn areas. A note on the landscape plan states that an automated underground irrigation system will be installed.

2. SCREENING: A six (6) foot tall wooden privacy fence is proposed along the perimeter of the property and is to end at the front yard setback along Claflin Road, which is approximately twenty-nine (29) feet from the front property line. A six (6) foot tall wooden fence with a gate is also proposed to screen the trash dumpsters at the northeast and southwest corners of the parking lot. Additional landscape screening, in the form of deciduous and evergreen trees are proposed along the west, north and east property lines to buffer the residential development from the adjacent single-family property owners.

3. DRAINAGE: The majority of the site is currently pervious surfaces with open yard areas. The land generally slopes to the northeast corner of the site. SMH Consultants has submitted a drainage study with the PUD application. The drainage study explains that the storm water will flow over the land to a detention basin in the southeast corner of the site. The detention basin will eventually connect to the City's storm sewer system along Claflin Road and Hartford Road. Currently the storm sewer system at Claflin Road and Hartford Road is undersized and would not be able to accommodate the increase in storm water runoff anticipated from the site. The area historically has had flooding in the roadway. The City has designs nearly complete to improve the storm water drainage system upstream from the intersection and downstream through the Tecumseh/Quivera drainage system. These improvements have not yet been funded. If funded, the construction of the system improvements could begin as soon as 2011. The applicant's consultants propose that the site's storm water detention improvements will be coordinated with the improvements to the Claflin Road/Hartford Road storm sewer system improvements. The consultant states that until the improvements to the City's system are made, the runoff "will only result in nuisance drainage issues with Claflin Road and Hartford similar to what already occurs and will not result in property damage." The consultant have provided "an option to install a setback curb inlet up gradient from this location to further improve the drainage issues in the street if desired by the City; but this inlet will only function properly if downstream improvements are made by the City of Manhattan."

Attachment No. 1

According to the drainage study, the detention basin is sized to handle runoff from storms with less intensity than a 1% annual chance storm (100 year storm). The detention basin will retain storm water runoff at a rate equal to or greater than what is currently generated by the site. In the event of a 1% annual chance storm or greater, the detention basin will fill up and sheet flow into the curb and gutter system along Claflin Road. The City Engineer “accepts the stormwater drainage impact study that was provided to the City of Manhattan by SMH Consultants which was sealed and signed by a Licensed Engineer in the State of Kansas.” The Civil Engineer Department has recommended that the outlet pipe from the detention basin be adequately sized and detailed in the Final Development Plans according to the outlet rates in the drainage report.

THE PUD IS CONDITIONED UPON THE SUBMITTAL OF A RESTRICTIVE COVENANT, WHICH WILL NEED TO BE REVIEWED AND APPROVED BY THE CITY AND FILED WITH THE FINAL PLAT AFTER IT IS EXECUTED BY THE CITY. THE COVENANT SETS OUT RESPONSIBILITIES OF THE OWNERS OF PUD REGARDING MAINTENANCE OF IMPROVEMENTS, DRAINAGE EASEMENTS AND THE DETENTION. THE COVENANT GIVES THE CITY THE ABILITY TO ASSESS THE OWNERS FOR MAINTENANCE COSTS, IF NECESSARY.

4. CIRCULATION: Access to the site is from a new twenty-six (26) foot wide curb cut onto Claflin Road (measured at the property line). Claflin Road is a four-lane, collector street. The new driveway is approximately 153 feet from the existing driveway to the west and 210 feet to the existing driveway to the east. The location of the new driveway meets the Manhattan Subdivision Regulations and the Manhattan Area Transportation Strategy (MATS) for access management standards onto a collector street, a minimum of 150 feet from an intersecting local street or driveway. The existing curb cut to the site will be abandoned and replaced with curb and gutter. Access to each dwelling unit will be from the internal driving aisles in the parking lot.

A Transportation Impact Study for the development was conducted by SMH Consultants. The study states that “the development’s projected peak hour trip generation based on 29 Townhome Units with 4 bedrooms each is 27 trips in the a.m. peak hour. The City Engineer has reviewed the Transportation Impact Study for the development and accepts the report with no issues (*see attached memo*). The proposed development will not adversely impact the existing traffic network in the surrounding area because of the relatively small increase in trips generated by the development in the a.m. peak hour.

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One-hundred and fourteen (114) off-street parking spaces are shown on the site plan. Two (2) off-street parking stalls located to the north and south of the center landscape area (a total of 4 spaces) appear to be too narrow to allow the driver or passenger of a typical full size vehicle to exit the vehicle when the adjacent spaces are being used. Although the parking spaces meet the minimum off-street parking space dimensions, City Administration does not believe that they will function adequately and did not count them in the total count of the off-street parking spaces. Considering this, a total of 110 off-street parking spaces are provided. Based on the off-street parking regulations for a multiple-family development, a four (4) bedroom dwelling unit is required to provide four (4) off-street parking spaces (Section 7-103(A)(3)(a)). A one-bedroom dwelling unit in a multiple-family development is required to have a minimum of two (2) off-street parking spaces. A minimum of 108 parking spaces are required. The proposed development provides off-street parking that exceeds the minimum parking requirements by two (2) spaces.

Pedestrian Access

Six (6) foot wide sidewalks are provided in front of each dwelling unit. The internal sidewalks ultimately connect to an existing sidewalk in the Claflin Road ROW.

Bicycle

Bicycle racks are shown at the northeast and southwest corner of the parking lot adjacent to the trash dumpster areas.

5. OPEN SPACE AND COMMON AREA: An approximately 17 foot by 120 foot grass area is located in the center of the parking lot. A fifteen (15) foot wide grass area is provided around the perimeter of the site. The area around the perimeter of the development is dedicated as a drainage and utility easement, which prevents the construction of structures or the planting of trees and landscaping in the easement. The proposed trees behind the buildings are shown to be outside of the drainage and utility easement.

6. CHARACTER OF THE NEIGHBORHOOD: The surrounding neighborhood is a mix of single-family residential dwellings, multiple-family dwellings, a fraternity, the Riley County Historical Museum, Riley County Health Department and open space. To the north, east and immediately to the west are single-family dwellings that were originally platted and developed in the 1950's. The single-family neighborhood can be characterized by small lots and small homes that have become mostly rental units with a few owner-occupied homes. Further to the west is the Delta Upsilon Fraternity and the Chase Manhattan apartment complex. The Chase Manhattan apartment complex is a large, multiple-family complex that has 180 dwelling units distributed among eight (8) buildings with a clubhouse, swimming pool and other recreational facilities. To the south is the

Riley County Historical Museum and the Goodnow House, Pioneer Park and the Riley County Health Department. The Goodnow House is listed on the National and State Registry of Historic Places. Further to the south are single-family dwellings that were platted and developed in the 1960's.

MATTERS TO BE CONSIDERED WHEN CHANGING ZONING DISTRICTS

- 1. EXISTING USE:** single-family rental unit
- 2. PHYSICAL AND ENVIRONMENTAL CHARACTERISTICS:** The site is a relatively flat, large lot with a single-family home and detached garage on the north part of the site. The site has large mature trees along the property line and a large, mature tree in the center of the site.
- 3. SURROUNDING LAND USE AND ZONING:**
 - (a.) NORTH:** Single-Family Dwellings; R-1, Single-Family Residential District.
 - (b.) SOUTH:** Claflin Road, a four-lane collector street, the Riley County Historical Museum, the Goodnow House, Pioneer Park, the Riley County Health Department and single-family homes; R, Single-Family Residential District and R-3/UO, Multiple-Family Residential District with University Overlay District.
 - (c.) EAST:** Single-Family Dwellings; R-1, Single-Family Residential District.
 - (d.) WEST:** Single-Family Dwelling, Delta Upsilon Fraternity and the Chase Manhattan apartment complex; R-1, R-1/OU and PUD, Chase Manhattan Residential Planned Unit Development
- 4. CHARACTER OF THE NEIGHBORHOOD:** See above under number 6
- 5. SUITABILITY OF SITE FOR USES UNDER CURRENT ZONING:** The site is currently being used as a single-family rental unit. The site was rezoned and platted to construct the Phi Delta Theta fraternity. Following the platting and rezoning of the site, the fraternity was never established. The site is suitable for the existing use as currently zoned.

COMPATIBILITY OF PROPOSED DISTRICT WITH NEARBY PROPERTIES AND EXTENT TO WHICH IT MAY HAVE DETRIMENTAL AFFECTS: The surrounding neighborhood is a mix of owner occupied and rental single-family residential dwellings, multiple-family dwellings, a fraternity, the Riley County Historical Museum, Riley County Health Department and open space.

The applicants and their consultants held a neighborhood meeting on September 22, 2010 to discuss the proposed development. The meeting summary (*attached*) states that attendees were concerned with the adequacy of utilities, the management of storm water runoff from the development, the amount of traffic generated by the development, the amount of parking provided, the design of the buildings and screening the development from adjacent properties. The meeting summary includes the applicant's response to the concerns.

Compared to the existing single-family rental unit on the large, 2.68 acre lot, it can be anticipated that there will be some impacts by an increase in light, noise and traffic. The applicants have proposed seven (7) buildings ranging in size from approximately fifty-six (56) feet by thirty-six (36) feet to approximately one hundred and forty (140) feet by thirty-six (36) feet. The building setbacks of the site are approximately twenty-nine (29) feet from the front property line along Claflin Road, approximately thirty-three (33) feet from the side property line to the west, approximately twenty-three (23) feet from the north property line, and approximately twenty-four (24) feet from the east side property line. The typical setbacks for developments in a single-family district are twenty-five (25) feet from the front property line, eight (8) feet from the side property lines and twenty-five (25) feet from the rear property line. Deciduous and evergreen trees are proposed between the buildings and the side and rear property lines. The legend on the landscape plans state that the trees will be thirty-five (35) to seventy (70) feet in height when mature. A fifteen (15) foot wide drainage and utility easement is proposed along the side and rear property lines of the site. No landscaping or structures are permitted in the drainage and utility easement. A six (6) foot tall cedar fence is proposed along the perimeter of the property to provide sight obscuring screening of the development. The off-street parking spaces are located in the center of the development, which will be screened by the proposed buildings and landscaping. The proposed landscaping, screening fence and open space created by the drainage and utility easement should create an adequate buffer between the development and adjacent residential properties to the north, east and west.

A Traffic Impact Study was conducted by SMH Consultants for the development. The study determined that the twenty-nine (29) unit townhome development would generate twenty-seven (26) trips in the a.m. peak hour. The consultant has determined that "the 26 trips during the peak hour related to the site will have minimal impacts on the transportation network as a whole." The new driveway meets the Manhattan Subdivision

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Regulations and the Manhattan Area Transportation Strategy (MATS) for access management standards onto a collector street by being approximately 153 feet from the existing driveway to the west and 210 feet from the adjacent driveway to the east.

Historic Environs

The site is within the Historic Environs of the Goodnow Memorial Home, located to the south of Claflin Road. The local Historic Resource Board (HRB) reviewed an early submittal of the proposed development “found that the **proposed Claflin Townhomes PUD** does not meet the *Standards and Guidelines for Evaluating the Effect of Projects on Environs* and will encroach upon, damage or destroy the environs of the Goodnow Memorial Home. Specifically, the Board found that the proposal does not meet Standard #6 pertaining to new infill construction. The Board recommended that the plans be revised to reduce the perceived scale of the building facing Claflin Road and to incorporate additional landscaping in the front yard along Claflin Road (*See attached recommendation letter, minutes from the October 25, 2010 meeting*).

Following the HRB’s recommendation, but before the State Historic Preservation Office (SHPO) made their final decision, the applicants revised their site plan to make the buildings smaller in length, set back further from Claflin Road and have more landscaping along the front yard.

The State Historic Preservation Office found that “the proposed development is within typical size, scale and setbacks of the environs and our office has determined that the project will not encroach upon, damage or destroy the environs of the Goodnow House” (*see attached letter, dated November 23, 2010*).

6. CONFORMANCE WITH COMPREHENSIVE PLAN: The site is shown on the Southwest Planning Area Future Land Use Map of the Comprehensive Plan as RLM, Residential Low/Medium Density.

Policies of the RLM designation include:

RESIDENTIAL LOW/MEDIUM DENSITY (RLM)

RLM 1: Characteristics

The Residential Low/Medium Density designation incorporates a range of single-family, single-family attached, duplex, and town homes, and in appropriate cases include complementary neighborhood-scale supporting land uses, such as retail, service commercial, and office uses in a planned neighborhood setting, provided they conform with the policies on Neighborhood Commercial Centers. Small-scale multiple-family buildings and condominiums may be permissible as part of a planned unit development, or

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special mixed-use district, provided open space requirements are adequate to stay within desired densities.

RLM 2: Appropriate Density Range

Densities in the Residential Low/Medium designation range between less than one dwelling unit/acre up to 11 dwelling units per net acre.

RLM 3: Location

Residential Low/Medium Density neighborhoods typically should be located where they have convenient access and are within walking distance to community facilities and services that will be needed by residents of the neighborhood, including schools, shopping areas, and other community facilities. Where topographically feasible, neighborhoods should be bounded by major streets (arterials and/or collectors) with a direct connection to work, shopping and leisure activities.

RLM 4: Variety of Housing Styles

To avoid monotonous streetscapes, the incorporation of a variety of housing models and sizes is strongly encouraged in all new development.

The site plan shows a net density of 10.8 dwelling units per acre.

The site has an existing single-family rental unit located on it. The proposed Planned Unit Development can be considered a redevelopment or infill project. The policies set out in Chapter 9: Housing and Neighborhood promotes infill and redevelopment. The specific policy states:

HN 5: Promote Infill and Redevelopment

The City and County should encourage infill development and redevelopment on vacant or underutilized parcels where infrastructure and services are readily available and where it would foster the stabilization or revitalization of an existing area. Infill and redevelopment should be sensitive to the established character of the surrounding neighborhood. Infill means the development of new housing or other buildings on scattered vacant sites in a built-up area. Redevelopment means the replacement or reconstruction of buildings that are in substandard physical condition, or that do not make effective use of the land on which they are located. If properly designed, infill and redevelopment can serve an important role in achieving quality mixed use neighborhoods.

The proposed rezoning of the 2216 Claflin Road Townhomes Planned Unit Development is generally consistent with the Comprehensive Plan.

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

May 5, 1959	Annexed and Zoned "A", First Dwelling House District (Ord. No. 2131).
1959 – 1963	"A", First Dwelling Residential District.
1964 – 1969	"A-A", Single-Family Dwelling District.
1969 – 1994	R-1, Single-Family Residential District
1995 – Present	R-1/UO, Single-Family Residential District and University Overlay District.

8. 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 proposed PUD is located in the R-1/UO Districts.

Land use and structures within a Planned Unit Development District which, when approved by the Planning Board and Governing Body, may differ in one or more respects from the regulations that are applicable in any other zoning district. The objectives of a Planned Unit Development District shall be to promote progressive development of land and construction by encouraging Planned Unit Developments (PUD's) to achieve:

- (A) A maximum choice of living environments by allowing a variety of housing and building types;
- (B) A more useful pattern of open space and recreation areas and, if permitted as part of the project, more convenience in the location of commercial uses and services;
- (C) A development pattern which preserves and utilizes natural topography and geologic features, scenic vistas, trees and other vegetation, and prevents the disruption of natural drainage patterns;
- (D) A more efficient use of land than is generally achieved through conventional development;
- (E) A development pattern in harmony with land use density, transportation facilities, and community facilities;
- (F) An environment which provides safe, clean, convenient and necessary residential, commercial, and industrial facilities which will afford greater opportunities for better housing, recreation, shops and industrial plants for all citizens of the community;

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- (G) A development plan which suits the specific needs of the site and takes into account the unique conditions of the property which may require changes of conventional bulk regulations, lot layout, or density; or results in a project that provides greater public benefit than would be provided under conventional zoning; and,
- (H) A mixture of compatible uses which might not otherwise be permitted in a single district, or which may restrict the range of land uses more than in a single district.

The proposed PUD provides for twenty-nine (29), four (4) bedroom and one (1) bedroom dwellings designed for the student housing market. The conventional R-1, Single-Family Residential District would allow a maximum of eighteen (18) single-family homes on the 2.68 acre site. The proposed site plan provides a more compact development that allows for landscape and open areas along the perimeter of the site to provide for separation and screening. The proposed rezoning is generally consistent with the intent 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 INDIVIDUAL OWNER:

Denial of the request would not be a gain to the public because minimal impact on the public is expected as a result of traffic or storm water. It appears there may be a hardship on the owner if the rezoning is denied due to no relative gain to the public that denial would accomplish

11. ADEQUACY OF PUBLIC FACILITIES AND SERVICES: Adequate public facilities, utilities and services are available to serve the site. The existing storm sewer system along Claflin Road and Hartford Road is inadequate. The City has design projects nearly complete for the area to improve the system. The applicant's consultants have taken the undersized system into consideration when designing the projects storm water drainage system.

12. OTHER APPLICABLE FACTORS: None

13. STAFF COMMENTS AND RECOMMENDATION: City Administration recommends approval of the proposed rezoning of 2216 Claflin Townhomes PUD from R-1, Single-Family Residential District and UO, University Overlay District to PUD, Residential Planned Unit Development District, with the following conditions of approval:

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The Permitted Use shall be twenty-nine (29) single-family attached dwellings consisting of twenty-five (25) four-bedroom units and four (4) one-bedroom units.

1. 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.
2. All landscaping and irrigation shall be maintained in good condition.
3. A six (6) foot tall, sight-obscuring screening fence shall be provided along the perimeter of the site. The fence shall not encroach into the twenty-nine (29) foot front-yard setback along Claflin Road as established by the proposed site plan.
4. A covenant between the City and owner(s) concerning maintenance of drainage easements, improvements and detention facilities shall be reviewed and approved by the City and filed with the Final Plat.
5. Exempt signage shall include signage described in Article VI, Section 6-104 (A)(1),(2),(4),(5), and (7); and, Section 6-104 (B) (2) and (5), of the Manhattan Zoning Regulations, as may be amended related political or campaign signs.

ALTERNATIVES:

1. Recommend approval of the proposed rezoning of 2216 Claflin Townhomes PUD from R-1/UO, Single-Family Residential District and University Overlay, to PUD, Residential Planned Unit Development District, stating the basis for such recommendation, with the conditions listed in the Staff Report.
2. Recommend approval of the proposed rezoning of 2216 Claflin Townhomes PUD from R-1/UO, Single-Family Residential District and University Overlay, to PUD, Residential Planned Unit Development District, and modify the conditions, and any other portions of the proposed PUD, to meet the needs of the community as perceived by the Manhattan Urban Area Planning Board, stating the basis for such recommendation, and indicating the conditions of approval.
3. Recommend denial of the proposed rezoning, stating the specific reasons for denial.
4. Table the proposed rezoning to a specific date, for specifically stated reasons.

POSSIBLE MOTION:

The Manhattan Urban Area Planning Board recommends approval of the proposed rezoning of 2216 Claflin Townhomes PUD from R-1/VO, Single-Family Residential District and University Overlay, to PUD, Residential Planned Unit Development District, based on the findings in the staff report, with the six (6) conditions recommended by City Administration.

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

DATE: November 29, 2010



INTER-OFFICE MEMORANDUM

DATE: December 15, 2010

TO: Manhattan Urban Area Planning Board

MEETING DATE: December 20, 2010

FROM: Steve Zilkie, AICP, Senior Planner

RE: Amend Manhattan Zoning Regulations to Allow Home Occupations in a Manufactured Home or Mobile Home

BACKGROUND

City Administration received a request from a member of the public to amend the Manhattan Zoning Regulations to allow home occupations in manufactured and mobile homes in compliance with the requirements of Article V, Accessory Uses, Temporary Uses, Home Occupations, PART 3, Home Occupations. The person requesting the text amendment, as well as the owners of all of the manufactured home parks, were sent the text amendment and date, time and location of the public hearing.

Home occupations are permitted in any residential district in a “dwelling unit.” By definition, a manufactured home or mobile home is not a dwelling unit and is specifically excluded from the term, dwelling. In addition, dwelling units are in residential buildings while manufactured and mobile homes are not considered buildings. In a general sense, manufactured or mobile homes are a not permanently affixed to the ground. For whatever reasons, when the current Zoning Regulations were adopted in 1996, home occupations were excluded from manufactured and mobile homes, the majority of which are in the R-5, Manufactured Home Park District. Manufactured and mobile homes are also permitted in the R-4, General Residential District.

The Manhattan Urban Area Planning Board discussed the request at a previous work session. One question was asked at the work session regarding day care, which is addressed below under **AREAS WHICH ARE MOST LIKELY TO BE DIRECTLY AFFECTED BY SUCH CHANGE AND IN WHAT WAY THEY WILL BE AFFECTED.**

Proposed Amendments - Home Occupations

The proposed amendments (attached) are in bold italics and include:

- Modify Article V, Accessory Uses, Temporary Uses, Home Occupations, PART 3, Home Occupations, to permit Home Occupations in a Manufactured Home or Mobile Home; and,
- Modify the term, Home Occupation, in Article XVI, Construction and Definitions, PART 2, Definitions, Section 16-201.

Article V

Home Occupations are described in Article V, PART 3, Sections 5-301 through 5-305. Home occupations are authorized in Section 5-301, “Home occupations as defined herein shall be permitted in any **dwelling unit**, in any residential district, except that in a Planned Unit Development home occupations must be specifically authorized.” The key term in the authorization, as it relates to the proposed amendment, is “dwelling unit”. By definition, manufactured homes and mobile homes are not dwelling units (see definitions below). Section 5-302 defines the term and Section 5-303 sets out Use Limitations by which a home occupation can be conducted. Applicable sections are modified to allow home occupations in a manufactured or mobile home.

Article XVI

Home Occupation is defined in the Manhattan Zoning Regulations as, “A business, profession, occupation or trade conducted for gain or support entirely within a residential building; or, when permitted by Section 5-303, within a structure that is accessory to a **residential building**; and that is subordinate in area, extent, and purpose to the residential use. The renting of a portion of a residential building for habitation by other persons, in compliance with these Zoning Regulations, shall not be considered to be a home occupation.” Note: The term is defined in Article V, Section 5-302, as well as Article XVI. Both definitions are proposed to be modified to remain consistent.

Additional definitions which clarify the amendments include:

DWELLING UNIT: A building or portion thereof, including residential-design manufactured homes, but not a mobile home or manufactured home, designed or used for a residential occupancy.

MANUFACTURED HOME: A structure, designed to be a residence, built on or after June 15, 1976, which meets the National Manufactured Home Construction and Safety Standards (42 U.S.C. Sec. 5403) has a permanent chassis, and is transportable in one (1) or more sections. (Does not include modular homes).

MOBILE HOME: A structure, designed to be a residence, built prior to June 15, 1976, which may or may not meet the National Manufactured Home Construction and Safety Standards (42 U.S.C. Sec. 5403) has a permanent chassis, and is transportable in one or more sections.

MANUFACTURED HOME PARK: A tract of real estate not less than five (5) acres under single ownership, which has been developed, subdivided, planned and improved for the placement of manufactured and mobile homes for nontransient use, but shall not include mobile home sales lots on which unoccupied mobile homes are parked for the sole purposes of display, inspection, sale or storage.

RESIDENTIAL BUILDING: A building all or part of which contains one (1) or more dwelling units, including single-family dwellings, two-family dwellings, multiple-family dwellings, lodging houses, dormitories, sororities and fraternities.

AMENDMENTS TO THE TEXT OF THE ZONING REGULATIONS

When a proposed amendment results in a change to the text of the Zoning Regulations, the report from the Planning Staff shall contain a statement as to the nature and effect of the proposed amendment, and determinations as to the following:

WHETHER SUCH CHANGE IS CONSISTENT WITH THE INTENT AND PURPOSE OF THE ZONING REGULATIONS

The intent of the Manhattan Zoning Regulations is to protect the public health, safety and general welfare, and to protect property values. The R-5 District and R-4 District are residential districts in which a manufactured home or mobile home are permitted uses and are designed as a residence and occupied in a manner generally equivalent to a dwelling unit, which means that both are intended to be a residence. The R-4 District allows single-family dwelling units as a permitted use and home occupations are allowed in the dwelling units. The proposed amendment would allow home occupations in the R-4 District in manufactured or mobile homes consistent with the use allowed in a dwelling.

The proposed amendments are consistent with the intent and purpose of the Manhattan Zoning Regulations, which is to allow home occupations in a residence in residential districts.

AREAS WHICH ARE MOST LIKELY TO BE DIRECTLY AFFECTED BY SUCH CHANGE AND IN WHAT WAY THEY WILL BE AFFECTED

Home occupations will be a permitted use the R-5, Manufactured Home Park District, a residential district, and R-4, General Residential District. R-5 Districts include Redbud Estates off Seth Child Road, Colonial Gardens, Blue Valley, and the Ponderosa off Tuttle Creek Boulevard, and Countryside Estates off Knox Lane. The only R-4 District is

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located along Casement Road, approximately 425 feet north of the intersection of Casement Road and Dix Drive on the east side of Casement Road, and allows manufactured and mobile homes, as well as single-family detached dwellings, as permitted uses. Home occupations would be allowed in manufactured or mobile homes in the R-4 District.

There are several other locations where existing manufactured or mobile homes are located, one area is along Fair Lane in the I-3, Light Industrial District, and one other area is in the LM-SC, Light Manufacturing-Service Commercial District. Home occupations in manufactured or mobile homes in industrial or industrial-commercial districts would not be allowed.

There are manufactured and mobile homes in a residential Planned Unit Development along Casement Road, immediately north of the intersection of Casement Road and Dix Drive on the east side of Casement Road. Home occupations are not part of the PUD and home occupations would not be allowed in the manufactured or mobile homes because the use is not specifically authorized in the PUD. The PUD would have to be amended to allow home occupations. In addition, no other residential PUDs in the City allow Manufactured or mobile homes are not authorized in other residential PUDs in the City.

Some home occupations may be subject to licensing requirements, such as a day care home or food related occupations, for example food catering, and would be licensed by the Riley County Health Department. These home occupations may also be subject to Building Code requirements, as well as inspections by the Riley County Health Department and City of Manhattan.

WHETHER THE PROPOSED AMENDMENT IS MADE NECESSARY BECAUSE OF CHANGED OR CHANGING CONDITIONS IN THE AREAS AND ZONING DISTRICTS AFFECTED, OR IN THE CITY PLANNING AREA, GENERALLY, AND IF SO, THE NATURE OF SUCH CHANGED OR CHANGING CONDITIONS

When the current requirements for home occupations were adopted in 1996, manufactured or mobile homes were not authorized for home occupations. There is no reasoning in the regulations. Because home occupations are not licensed, home occupations may have occurred or may be occurring currently in manufactured or mobile homes.

A citizen request was made in 2010 to allow home occupations in manufactured or mobile homes. The intent of the regulations is to allow home occupations in a residential setting in a residential district. The proposed change will authorize home occupations in a manufactured or mobile homes, which are a residence, in the same manner as a home occupation in a dwelling unit, and subject to the use limitations applicable to dwelling units in residential buildings.

WHETHER SUCH CHANGE IS CONSISTENT WITH THE INTENT AND PURPOSE OF THE POLICY AND GOALS AS OUTLINED IN THE ADOPTED COMPREHENSIVE PLAN OF THE CITY

The Zoning Regulations implement the Comprehensive Plan, its goals, objectives, and policies. The Comprehensive Plan is general in nature and does not specify administrative detail such as the proposed amendment. However, the proposed amendment ensures that the general statements in the Comprehensive Plan are implemented consistent with legal requirements.

ALTERNATIVES

It appears the MUAPB has the following alternatives concerning the issue at hand. The Board may:

1. Recommend approval of the proposed amendments to the City Commission.
2. Recommend denial of the proposed amendments to the City Commission.
3. Modify the proposed amendments and forward the modifications, along with an explanation, to the City Commission.
4. Table the public hearing to a specific date, and provide further direction to City Administration.

RECOMMENDATION

City Administration recommends approval of the amendment to the Manhattan Zoning Regulations to Article V, Accessory Uses, Temporary Uses, Home Occupations, PART 3, Home Occupations, to permit Home Occupations in a Manufactured Home or Mobile Home; and, to modify the term, Home Occupation, in Article XVI, Construction and Definitions, PART 2, Definitions, Section 16-201.

POSSIBLE MOTION

The Manhattan Urban Area Planning Board recommends approval of the amendment to the Manhattan Zoning Regulations to Article V, Accessory Uses, Temporary Uses, Home Occupations, PART 3, Home Occupations, to permit Home Occupations in a Manufactured Home or Mobile Home; and, to modify the term, Home Occupation, in Article XVI, Construction and Definitions, PART 2, Definitions, Section 16-201, based on the findings in the Staff Memorandum.