

MINUTES
SPECIAL CITY COMMISSION MEETING
TUESDAY, JUNE 28, 2011
5:00 P.M.

The Special Meeting of the City Commission was held at 5:00 p.m. in the City Commission Room. Mayor James E. Sherow and Commissioners Loren J. Pepperd, John Matta, Wynn Butler, and Richard B. Jankovich 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, 12 staff, and approximately 90 interested citizens.

PLEDGE OF ALLEGIANCE

Mayor Sherow led the Commission in the Pledge of Allegiance.

PRESENTATION

Mayor Sherow and City Manager Ron Fehr recognized Bernie Hayen, Emily Campbell, Matthew Wolff, Pam Jager, and Gulden Celebi for receiving the Distinguished Budget Presentation Award.

COMMISSIONER COMMENTS

Commissioner Pepperd reminded everyone to be safe and enjoy the Fourth of July holiday area activities.

Mayor Sherow wished the community a Happy Fourth of July holiday and encouraged all citizens to be safe and to be aware of City ordinances pertaining to fireworks.

CONSENT AGENDA
(* denotes those items discussed)

CLAIMS REGISTER NO. 2675

The Commission approved Claims Register No. 2675 authorizing and approving the payment of claims from June 15, 2011, to June 21, 2011, in the amount of \$5,585,886.56.

* **FINAL PLAT – KMAN ADDITION**

The Commission accepted the easements and rights-of-way, as shown on the Final Plat of the KMAN Addition, generally located at 2414 Casement Road, based on conformance with the Manhattan Urban Area Subdivision Regulations.

* **FINAL PLAT – TATARRAX HILLS ADDITION, UNIT FOUR**

Bernie Hayen, Director of Finance, and Rina Neil, Operations Officer, responded to questions from the Commission and provided information on the process and apportionment of special assessments.

Bill Frost, City Attorney, provided clarification on subdividing lots and how special assessments are assigned to lots.

The Commission accepted the easements and rights-of-way, as shown on the Final Plat of Tatarax Hills Addition, Unit Four, generally located north of the intersection of Glenn's Drive and Marlatt Avenue, based on conformance with the Manhattan Urban Area Subdivision Regulations.

ORDINANCE NO. 6901 – AMEND – LOT 2, NEW BOSTON COMMONS PUD

The Commission approved Ordinance No. 6901 amending the Preliminary Development Plan of Lot 2, New Boston Commons, Commercial Planned Unit Development, and Ordinance No. 6819, to be known as the Final Development Plan of New Boston Commons, Unit Two, Commercial Planned Unit Development, generally located 190 feet south of the intersection of Westport Place and Garden Place, based on the findings in the Staff Report (*See Attachment No. 1*), with the three conditions of approval recommended by the Manhattan Urban Area Planning Board.

FINAL PLAT – NEW BOSTON COMMONS, UNIT TWO, PUD

The Commission accepted the easements and rights-of-way, as shown on the Final Plat of New Boston Commons, Unit Two, A Commercial Planned Unit Development, generally located 190 feet south of the intersection of Westport Place and Garden Place, based on conformance with the Manhattan Urban Area Subdivision Regulations.

CONSENT AGENDA (CONTINUED)

PUBLIC HEARING – TRANSPORTATION DEVELOPMENT DISTRICT – DOWNTOWN ENTERTAINMENT DISTRICT

Mayor Sherow opened the public hearing.

Hearing no comments, Mayor Sherow closed the public hearing.

* **ORDINANCE NO. 6902 – TRANSPORTATION DEVELOPMENT
DISTRICT – DOWNTOWN ENTERTAINMENT DISTRICT**

Jason Hilgers, Assistant City Manager, provided background information on the item and responded to questions from the Commission.

The Commission approved Ordinance No. 6902 creating the South Project Area Transportation Development District.

ORDINANCE NO. 6903 – AMEND 2010 STANDARD TRAFFIC ORDINANCE – DRIVING UNDER THE INFLUENCE PROVISION

The Commission approved Ordinance No. 6903 amending Ordinance No. 6853 updating the provisions of the 2010 Standard Traffic Ordinance relating to driving under the influence of intoxicating liquors or drugs.

SET PUBLIC HEARING DATE – SPECIAL ASSESSMENTS (GOB 2011-A)

The Commission set July 19, 2011, as the date to hold a public hearing levying special assessments against the benefiting properties in the following seven (7) projects, which have been completed: *Barton Place Addition, Unit Two, Phases One and Two – Street (ST0620); Grand Mere Vanesta, Unit Three –Sanitary Sewer (SS0905), Street (ST0904), and Water (WA0902); and Scenic Meadows Addition, Unit Two, Phase Two – Sanitary Sewer (SS0813); Street (ST0820), and Water (WA0810).*

DEVELOPMENT AGREEMENT – BLUEMONT SCHOOL – SANITARY SEWER IMPROVEMENTS (SS1112)

The Commission authorized the City Manager to execute the Development Agreement with USD 383 for the sanitary sewer main relocation (SS1112) as part of the Bluemont School renovation and waive the 3% inspection and administrative fee.

BOARD APPOINTMENTS – PARKS AND RECREATION ADVISORY BOARD

The Commission approved the re-appointment of Bruce McMillan, 525 Wickham Road, to the Parks and Recreation Advisory Board to a four-year term. Mr. McMillan's term will begin July 1, 2011, and will expire June 30, 2015.

CONSENT AGENDA (CONTINUED)

After discussion, Commissioner Jankovich moved to approve the consent agenda, as presented. Commissioner Pepperd seconded the motion. On a roll call vote, motion carried 5-0, with the exception of Item B, FINAL PLAT – KMAN ADDITION, which carried 4-0-1, with Commissioner Jankovich abstaining from the item.

GENERAL AGENDA

PRESENTATION - 2010 CITY AUDIT

Bernie Hayen, Director of Finance, presented an overview on the 2010 City Audit and the Municipal Audit Committee. He introduced members of the Finance Department and the Municipal Audit Committee. He then provided additional background information on the Municipal Audit Committee.

Mike Rogers, CPA, and Michelle Crow, CPA, Varney & Associates, LLC, presented an overview on the 2010 City Audit and the 2010 Management Letter. They then responded to questions from the Commission regarding the 2010 City Audit; federal grants and administrative costs; the Water Fund and transfer of funds; internal audit procedures and controls; and thanked the Commission for establishing a Municipal Audit Committee. In summary, Mr. Rogers stated that it was a very good audit.

Dr. Eric Higgins, Spokesperson, Municipal Audit Committee, thanked the Commission for establishing a Municipal Audit Committee and expressed appreciation to Varney & Associates, LLC, and Bernie Hayen, Director of Finance. He identified two areas of ongoing discussion with the Committee. The first area was the handling of federal grants and improved communications in the administration of federal grant funds. The second item was the financial operating policies of the City. He then responded to questions from the Commission regarding items the Committee have discussed and informed the Commission that the Committee looked at internal controls and not the economics related to benefit districts.

Commissioner Jankovich provided additional background information on the Municipal Audit Committee and items reviewed, as he currently serves on the Committee.

After discussion, Commissioner Jankovich moved to receive and accept the preliminary 2010 Independent Auditor's Report. Commissioner Pepperd seconded the motion. On a roll call vote, motion carried 5-0.

GENERAL AGENDA (CONTINUED)

RESOLUTION NO. 062811-A - INTENT TO WITHDRAW FROM - RILEY COUNTY-MANHATTAN JOINT BOARD OF HEALTH AGREEMENT

Lauren Palmer, Assistant City Manager, presented background information on the intent to withdraw from the Riley County-Manhattan Joint Board of Health Agreement. She provided comparisons of other communities, action required to withdraw from the Joint Board of Health Agreement, future of the Board of Health, budget impact and funding, reserve funds, potential to contract for services, and enforcement of City ordinances. She stated that state statutes require the county health officer to enforce state health provisions countywide, including within the cities of the county. She then responded to questions from the Commission.

Clancy Holeman, Riley County Counselor, voiced concerns expressed by the Board of Riley County Commissioners and informed the Commission that he recognized that this is within the City's legal ability to withdraw from the Joint Agreement. He stated that his client, the Board of Riley County Commissioners, has expressed concerns with the short transition period, the transfer of reserve funds, the current Health Department personnel pay plan and health plan, Information Technology (IT) computer services and requirements, compatibility concerns in a short period of time, and the challenges and impact on Riley County management. He then responded to questions from the Commission regarding the reserve funds, the potential increase in ad valorem tax to maintain the same service level, and the expense of the audit for the Health Department.

Chuck Murphy, Director, Riley County-Manhattan Health Department, provided additional background information on the Health Department and the services that the Health Department provides for the community. He stated the Board of Health discussed this issue at a recent Board meeting and strongly recommended that this issue should only be explored after the hiring of the new administrator. He said that advertisements have already begun for his position and that the job description describes a city-county agency. He expressed concerns with the proposal and stated that the shift could have implications regarding state funding, because if there is a reduction in local funding the state will pull back an equal amount of funding. He added that the Health Department operates on one of the lowest locally funded budgets in the state, and that a reduction in state funds could be detrimental. He said if the City wants more control over the Health Department, it can achieve that through modifications to the Interlocal Agreement. He then responded to questions from the Commission regarding the potential loss of state funds, obligations and priorities of the Health Department, current reserve fund and designation of funds, computer and privacy issues, and the present employee insurance and pay system.

Lauren Palmer, Assistant City Manager, provided additional information on comparisons of communities that operate a county health department, a multi-county health department, and counties that currently operate a joint city-county health department in Kansas.

GENERAL AGENDA (CONTINUED)

RESOLUTION NO. 062811-A - INTENT TO WITHDRAW FROM - RILEY COUNTY-MANHATTAN JOINT BOARD OF HEALTH AGREEMENT (CONTINUED)

Chuck Murphy, Director, Riley County-Manhattan Health Department, informed the Commission that the proposed change would cause a disruption for the agency and that his preference would be to leave the Health Department structure as it is. He responded to additional questions from the Commission and provided additional information on his duties as Director.

Ron Fehr, City Manager, and Bill Frost, City Attorney, responded to questions from the Commission on the job announcement process and provided additional information on the statutory duties, responsibilities, and authority of the health officer.

Brady Burton, President, Riley County-Manhattan Board of Health, recognized the Board members in attendance and informed the Commission that he could see the pros and cons of the proposal, but asked for additional time and for the Commission to table the item for further discussion. He responded to questions from the Commission and stated that the Board of Health would like additional time to discuss the transition with a year delay, so that a new director can be hired before the City Commission moves forward.

Commissioner Matta stated that the governance change is needed to create greater accountabilities, oversight, and efficiencies for the agency, with direct accountability to the elected officials. He appreciated the concerns expressed with timing, but said it is better to be upfront with a new director on what is happening and to address the changes right away. He also said that this is not a way for the City to lower its mill levy and would expect the County to raise its mill levy to cover these costs.

Commissioner Butler stated that consolidating governance of the Riley County-Manhattan Health Department is not a good example of consolidated government and need to have a unity of command. He said that Chuck Murphy has done an excellent job and that it may be a challenge to hire his replacement, but his replacement needs to be aware of this change in structure. He stated that it would be beneficial to the budgeting process to put the Health Department under control of Riley County and said what is needed is to eliminate third party entities that make the budget process more difficult.

Commissioner Jankovich agreed that Mr. Murphy has done a great job in managing this entity and that his responsibility has grown with him during his tenure at the Health Department. He stated that the proposed changes with Health Insurance Privacy and Portability Act (HIPPA) requirements are not small and is very critical in how they are handled. He supported the item and stated that the Commissioners are not doing anything fundamentally different and are shifting funds to make the entity more efficient with the same dollars.

GENERAL AGENDA (CONTINUED)

RESOLUTION NO. 062811-A - INTENT TO WITHDRAW FROM - RILEY COUNTY-MANHATTAN JOINT BOARD OF HEALTH AGREEMENT (CONTINUED)

Commissioner Pepperd stated that he sits on the Riley County-Manhattan Board of Health and understands the concerns expressed by the Board to the City Commission on its preference to wait until a new administrator is hired. He voiced support for additional oversight placed on the Health Department and stated that Riley County could provide the necessary oversight, continuity, auditing, administration, information technology support, and that it is time to do this as soon as possible.

Mayor Sherow stated that greater efficiencies need to be considered and that there will most likely not be a savings of money realized for Manhattan taxpayers with this proposed action. He voiced concern about the timing of this affecting the job announcement and hiring of a new Director and wanted to ensure an orderly transition. He asked that the item be tabled to provide additional time to work out arrangements for a smooth transition for the Health Board and for Riley County. He stressed the importance in the cooperative working relationship between Riley County and the City of Manhattan.

After discussion, Commissioner Matta moved to approve Resolution No. 062811-A declaring the City's intent to withdraw from the Riley County-Manhattan Joint Board of Health Agreement and direct City Administration to draft a charter ordinance for the purpose of abandoning claim to any reserve funds currently held by the Riley County-Manhattan Health Department. Commissioner Butler seconded the motion. On a roll call vote, motion carried 4-1, with Mayor Sherow voting against the motion.

At 7:00 p.m., the Commission took a brief recess.

WORK SESSION

OUTSIDE SERVICES AND AGENCIES 2012 FUNDING REQUESTS

Emily Campbell, Budget Officer, provided an overview of the proposed 2012 City Budget, the proposed mill levy for 2012, and a summary of outside agency requests for 2012 Budget considerations. She then responded to questions from the Commission.

Todd Simon, President, Manhattan Public Library Board of Trustees, introduced members of the Manhattan Public Library Board and provided background information and clarification on the Library's budget process and funding request.

WORK SESSION (*CONTINUED*)

OUTSIDE SERVICES AND AGENCIES 2012 FUNDING REQUESTS (*CONTINUED*)

Linda Knupp, Director, Manhattan Public Library, presented an overview on the highlights of the 2011 activities and key elements of the 2012 Budget for the Library. She then responded to questions from the Commission.

Gina Scroggs, Executive Director, Downtown Manhattan, Inc. (DMI), presented an overview of DMI's budget request for 2012 and a video highlighting downtown businesses and initiatives. She asked the Commission to support their funding request and responded to questions from the Commission.

Mark Skochdopole, Board President, DMI, thanked the Commission for considering their funding request and stated that the proposed funding is from the economic development fund and will not have a direct impact on property taxes.

Ron Fehr, City Manager, responded to questions from the Commission on the Economic Development Fund.

Gina Scroggs, Executive Director, Downtown Manhattan, Inc. (DMI), provided additional information on their budget request and responded to questions from the Commission.

Penny Senften, Executive Director, Manhattan Arts Center (MAC), recognized several of Manhattan Arts Center Board members in attendance and presented an overview of the programs and activities offered at MAC. She then presented the budget request for 2012 and responded to questions from the Commission.

Deanna Hall, representing Crime Stoppers of Manhattan/Riley County Board of Directors, recognized fellow Board members in attendance and presented background information and activities of Crime Stoppers. She also provided additional information on the funding mechanism in place from court costs for Crime Stoppers and asked the Commission for their support of their funding request.

Debbie Madsen, Chair, Social Services Advisory Board (SSAB), introduced SSAB Board members in attendance and presented an overview of the 2012 funding requests and recommendations from the SSAB.

Debra Ring, Director, Kansas State University Center for Child Development, responded to questions from the Commission on funds received from the Army Child Care in Your Neighborhood.

WORK SESSION (*CONTINUED*)

OUTSIDE SERVICES AND AGENCIES 2012 FUNDING REQUESTS (*CONTINUED*)

Ron Fehr, City Manager, responded to questions from the Commission on the status of Manhattan Day Care and Learning Center and related issues to be resolved with Farrar Corporation.

Debbie Madsen, Chair, Social Services Advisory Board (SSAB), responded to questions from the Commission on University for Mankind (UFM), potential cutback requests from the Commission and process, and informed the Commission of the time commitment and dedication of fellow SSAB members.

Elaine Johannes, Chair, Special Alcohol Fund Committee, introduced members of the Committee, presented an overview of the use of the Special Alcohol Funds, and highlighted the Special Alcohol Fund Committee recommendations for 2012 funding. She then responded to questions from the Commission.

Bernie Hayen, Director of Finance, responded to questions from the Commission on the special alcohol funding received and allocated from the state of Kansas.

Elaine Johannes, Chair, Special Alcohol Fund Committee, provided additional information on the Botvin's Lifeskills and the funding recommendations for the prevention, intervention, and treatment of alcohol abuse.

Ron Fehr, City Manager, and Pam Jager, Budget and Audit Analyst, Special Alcohol Fund Committee Staff Liaison, responded to questions from the Commission and provided additional information on available and historic funding levels.

Lyle Butler, President and Chief Executive Officer (CEO), Manhattan Area Chamber of Commerce, introduced members of the Chamber Board in attendance and presented background information on the Chamber budget requests and operations.

John Pagen, Vice President for Economic Development, Manhattan Area Chamber of Commerce, presented an overview and update on the Advantage Manhattan campaign, contracted services for economic development, Manhattan 24/7 campaign, Fort Riley initiatives, employment growth, job growth comparisons, and new building permit values.

Karen Hibbard, Director, Manhattan Convention and Visitors Bureau (CVB), presented an overview of the contract with the City of Manhattan, CVB income and funding, transient guest tax receipts, Manhattan's number of hotel rooms and occupancy levels, and funding request for 2012. She informed the Commission that additional details of the CVB business plan will be presented during the July 19, 2011, City Commission Meeting and

WORK SESSION (*CONTINUED*)

OUTSIDE SERVICES AND AGENCIES 2012 FUNDING REQUESTS (*CONTINUED*)

responded to questions from the Commission regarding the promotion of the Flint Hills Discovery Center, transient guest tax collections, and the primary draws to the community.

Cindy Bontrager, Budget Office, Kansas State University, presented a summary of the proposed projects and budget of the City/University Fund. She asked about the City not participating in the transit implementation start-up and questioned if the funding should remain in the plan or shift the funds to the stadium project. She then responded to questions from the Commission.

Lauren Palmer, Assistant City Manager, responded to questions from the Commission regarding the Good Neighbor Program.

Bruce Shubert, Vice President of Finance, Kansas State University, provided additional information on the emergency prevention, coordination, and communication efforts with the City/University Fund. He responded to questions from the Commission on the campus notification system.

Anne Smith, Executive Director, Flint Hills Area Transportation Agency, provided additional information on the current and projected ridership and the funding request to support demand response public transportation services. She then responded to questions from the Commission on the SafeRide program.

Nate Spriggs, Student Body President, Kansas State University, provided additional information on the SafeRide program and ongoing promotional efforts.

Edna Williams, Curator, Wolf House Museum, informed the Commission that the Wolf House is a jewel and encouraged the Commission to visit. She provided background information on the history of the Wolf House, attendance numbers, annual auditing reports, and the funding request for 2012.

Curt Loupe, Director of Parks and Recreation, and Ron Fehr, City Manager, responded to questions from the Commission on the Municipal Band and funding support.

Bernie Hayen, Director of Finance, responded to questions from the Commission on the 2012 Budget and forecast for the 2013 Budget.

WORK SESSION (CONTINUED)

OUTSIDE SERVICES AND AGENCIES 2012 FUNDING REQUESTS (CONTINUED)

Gayle Bennett, Vice-Chair, Social Services Advisory Board, voiced opposition in taking away programs from the poor that need assistance. She provided additional information on the item and informed the Commission that SSAB has already made hard decisions on funding recommendations.

The Commission discussed a number of alternatives to reduce the mill levy further and discussed potential reductions and funding priorities, including the potential reduction in funding to outside agencies.

Bernie Hayen, Director of Finance, informed the Commission of the publication deadline for the 2012 Budget.

After additional discussion and comments by the Commission, Ron Fehr, City Manager, informed the Commission that the next 2012 Budget Work Session is scheduled for July 12, 2011, and that the Commission will have an opportunity to discuss the 2012 Budget during the July 19, 2011, City Commission meeting. He then clarified feedback received from the Commission and stated that City staff will provide the Commission with proposals to consider in reaching a published budget number.

Lauren Palmer, Assistant City Manager, provided additional information on the ATA issue related to the City/University Funds and informed the Commission that they are under contract with ATA for three buses for their operations and asked for feedback.

Anne Smith, Executive Director, Flint Hills Area Transportation Agency, responded to questions from the Commission on the use and operation of the buses. She also provided additional information on bike racks and interior advertising space that was budgeted.

Mayor Sherow reminded citizens that there would not be a City Commission meeting on July 5, 2011, and encouraged everyone to enjoy the Fourth of July holiday and be safe.

ADJOURNMENT

At 10:35 p.m., the Commission adjourned.



Gary S. Fees, MMC, City Clerk

STAFF REPORT

AN AMENDMENT OF ORDINANCE NO. 6819 AND THE APPROVED PRELIMINARY DEVELOPMENT PLAN OF LOT 2, NEW BOSTON COMMONS, COMMERCIAL PLANNED UNIT DEVELOPMENT. THE AMENDMENT IS PROPOSED AS A FINAL DEVELOPMENT PLAN. A CONCURRENT FINAL PLAT IS ALSO PROPOSED (SEE SEPARATE STAFF MEMORANDUM REGARDING FINAL PLAT.)

BACKGROUND

APPLICANT/OWNER: Green Apple Ventures, LLC. – Dave Speaks.

ADDRESS: 3905 Snowy Reach, Manhattan, KS 66503.

LOCATION: Generally located 190 feet south of the intersection of Westport Place and Garden Place.

AREA: 28,239 square feet (0.64 acres).

DATE OF PUBLIC NOTICE PUBLICATION: May 16, 2011.

DATE OF PUBLIC HEARING: PLANNING BOARD: June 6, 2011.

CITY COMMISSION: June 21, 2011.

EXISTING PUD:

Ordinance

New Boston Commons Commercial Planned Unit Development and Ordinance No. 6819 dated March 23, 2010 (*attached*).

Lot 2, approved with the Preliminary Development Plan in March, 2010, was shown as having a single-story building located on it. The building would be orientated to the east towards the Westport Place travel easement. The proposed building would have approximately 4,290 square feet of gross building area. The building was proposed to be approximately twenty (20) feet tall. Forty-two (42) off-street parking spaces were proposed to be located along the north, east and south of the building (8 spaces to the north, 23 spaces to the east and 10 spaces to the south).

Permitted Uses

The permitted uses in the PUD include Business and Professional Offices.

PROPOSED MODIFICATIONS, BUILDINGS, IMPROVEMENTS AND DESIGN GUIDELINES

Whenever there are substantial modifications to an approved Preliminary Development Plan, the Manhattan Zoning Regulations require an Amendment of the PUD. The proposed changes are substantial modifications to the approved building and site design on Lot 2, which require an amendment of Ordinance No. 6819 and the Preliminary Development Plan.

Proposed Lots: The PUD amendment proposes to split existing Lot 2 into two (2) lots with the New Boston Commons, Unit Two Final Plat. Lot 1 will be approximately 14,100 square feet in area. Lot 2 will also be approximately 14,100 square feet in area. The purpose of the Final Plat is so that the future owner and tenant of Lot 2 can own the building and land outright. The lots will gain access from Westport Place, as originally designed with the New Boston Commons Final Plat. The twenty-five (25) foot wide drainage easement on the west side of the lot is proposed to be vacated with the Final Plat. The drainage easement was dedicated to accommodate stormwater runoff from the north to the south towards Wildcat Creek. A stormwater sewer pipe was installed in this area to convey stormwater to the south and also control the rate of runoff into the creek. This underground pipe eliminates the need for the drainage easement. By vacating the drainage easement, a trash enclosure and proposed landscape screening can be placed in the general area without violating Code of Ordinances for placing structures in a drainage easement. The twenty-five foot wide area will still be a utility easement to allow for access to the stormwater sewer pipe for maintenance and repair.

Proposed Buildings and Improvements:

The proposed buildings on Lot 1 and 2 will be single-story, with a gross building area of 1,875 square feet for each building, a total of approximately 3,600 square feet. Visually, the structures will appear as one (1) building, but will technically be two (2) building; with a demising wall located on the adjoining property line. The southern building is to be a medical office building. The northern building will be completed to the tenant specifications. The main entrances of the buildings will be to the north and south, respectively. The exterior materials proposed for the buildings are the same as what was approved with the approved Preliminary Development Plans, with stucco and masonry and thinset stone for accents over the entry ways. The roof materials will be architectural shingles. The proposed color of the building will be earth tones that are similar to the color of the accent stones. The height of the building will be approximately nineteen (19)

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feet. The buildings will be setback approximately sixty-six (66) feet from the front property line along Westport Place and sixty-three (63) feet from the Garden Way front property line.

The approved Preliminary Development Plan had forty-two (42) off-street parking spaces located to the north, east and south of the building on the lot. The proposed amendment to the Preliminary Development Plan removes the parking spaces that were to be located to the east of the buildings. Eleven parking spaces are located on each of the proposed lots, for a total of twenty-two (22) off-street parking spaces. The proposed change would be a net loss of twenty (20) spaces.

Proposed Signs:

The approved Preliminary Development Plan showed one (1) externally lit, ground sign on the north side of the building in a landscape island. Because the lot and building are to be split, two (2) externally lit, ground signs are proposed; one (1) on each lot in a grass area in front of the buildings.

The signs proposed in the PUD amendment are identical to the signage plan of the approved Preliminary Development Plan. The signs will be located in a grass area near the proposed buildings. Each sign will be approximately four (4) feet tall and six and one-half (6.5) feet wide with a sign area of approximately twenty-six (26) square feet. The signs will be constructed with a stone base and stucco materials similar to the proposed building. Each business will be identified by individual signs on a four (4) inch by fifty (50) inch, brushed aluminum plate.

Building address numbers will be inset into the masonry near each building entryway.

Exempt signage for such signs identified in the Manhattan Zoning Regulations as address numerals, for lease and other similar signs will also be allowed (*attachment Article VI, Section 6-104 (A)(1),(2),(4),(5),(7) and (8); and Section 6-104 (B)(1) and (2).*)

Proposed Lighting: Proposed lighting consists of pedestrian scale lighting at the entrances of the buildings. No light poles are proposed in the parking lots.

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

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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 general intent of the PUD is to provide for a business and professional office development that is an extension of the commercial uses along Anderson Avenue. The proposed amendment is to alter the site development to eliminate off-street parking spaces approved with the Preliminary Development Plan and to divide Lot 2, New Boston Commons PUD into two (2) separate lots so that proposed Lot 2, New Boston Commons, Unit Two, can be purchased and owned independently.

The proposed amendment is generally consistent with the intent and purpose of the approved Preliminary Development Plan. Approval of the proposed amendment will ensure the efficient development and preservation of the entire PUD.

2. WHETHER THE PROPOSED AMENDMENT IS MADE NECESSARY BECAUSE OF CHANGED OR CHANGING CONDITIONS IN OR AROUND THE PUD, AND THE NATURE OF SUCH CONDITIONS: The proposed amendment is made necessary by the desire to divide Lot 2, New Boston Commons PUD into two (2) separate lots so that Lot 2, New Boston Commons, Unit Two, can be purchased and owned independently. The application documents state the reason to remove a portion of the off-street parking is that “the developer was unsure as to the use therefore the original PUD showed a significantly greater number of parking spaces with a larger building. The proposed use requires a smaller building and subsequently less parking spaces.”

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: Approval of the proposed amendment will result in a relative gain to the general public welfare by allowing the development of the approved PUD. The reduction of the off-street parking will result in an increase in green space on the lots compared to the approved Preliminary Development Plan.

The proposed amendment will not be granted as a special benefit to any one person. The proposed modifications are in response to changes in market conditions in order to make the project viable and a benefit to the general public.

ADDITIONAL MATTERS TO BE CONSIDERED WHEN AMENDING A PLANNED UNIT DEVELOPMENT

- 1. LANDSCAPING:** The proposed landscaping is functional with respect to the proposed professional office setting of the development. The landscape plan consists of a grass front yard area along Westport Place, two (2) deciduous trees to the west of the proposed building and a variety of bushes, shrubs and ornamental grasses in landscape beds along the foundations of the building. A row of shrubs are proposed on the west edge of the parking lots on Lots 1 & 2 to provide a landscape buffer and screening from vehicle headlights.
- 2. SCREENING:** A row of shrubs are proposed on the west edge of the parking lots on Lots 1 & 2 to provide a landscape buffer and screening from the vehicle headlights. The trash enclosure on Lot 1s will be enclosed by a six (6) foot tall, sight obscuring cedar fence and gate. The proposed screening should be adequate.
- 3. DRAINAGE:** The site is proposed to drain to the south to Wildcat Creek, via an underground storm water pipe. A comprehensive drainage plan was submitted and approved with the approved PUD. There are no changes to the drainage proposal.
- 4. CIRCULATION:**
 - Public Access. The internal circulation plan provides for safe, convenient and efficient movement of motorists and pedestrians and conflicts between motorists and pedestrians are minimized. Access to the lots is from Westport Place, a travel easement which leads to Anderson Avenue to the north. The Garden Place travel easement on the north side of the New Boston Commons development provides for secondary access for both the New Boston Commons PUD and the Westport South Addition PUD. Maintenance responsibilities for the travel easements are established through a restrictive covenant, which was filed with the Final Plat of New Boston Commons Final Plat. The restrictive covenant is to be updated to reflect the new Final Plat of Lots 1 & 2, New Boston Commons, Unit Two.
 - Traffic.

A traffic analysis was submitted with the application documents for the approved Preliminary Development Plan. The City Engineer has previously reviewed and accepted with the rezoning of the PUD.
 - Off-Street Parking.

Originally, the Preliminary Development Plan showed a multiple-tenant building, with potentially four (4) or more business located in to building. The proposed amendment shows a medical office building on Lot 2 and a building left unfinished for the future

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tenant on Lot 1. Based on the usable interior floor area of the south building (excluding restrooms, storage, etc.), the medical office would be required to have a minimum of nine parking spaces (5.5 spaces per 1,000 square feet). Eleven (11) spaces are to be provided.

The northern building has a gross interior space of approximately 1,650 square feet. Using a similar percentage of 75% of usable floor area as the southern building, and the off-street parking requirements for a medical office building; a minimum of nine off-street parking spaces would be required. Eleven (11) off-street parking spaces are provided on Lot 1. The proposed off-street parking should be adequate for the proposed uses of the two (2) lots.

Sidewalks

The Final Development Plan shows a five (5) foot wide sidewalk on the south side of the building on Lot 2, which will connect to the sidewalk along Westport Place and Garden Way to provide pedestrian access to the development as well as to the commercial development north of the New Boston Commons PUD.

Bicycle Parking

One (1) loop style bicycle racks is proposed on the southwest side of the building on Lot 2.

- 5. OPEN SPACE/LANDSCAPED AND COMMON AREA:** The applicant has made provisions for the care and maintenance of the proposed landscaping within the development plan. Upon installation of landscaping, it will be maintained by the owner and watered by an underground sprinkling system.
- 6. CHARACTER OF THE NEIGHBORHOOD:** The site is located among a mix of commercial services, industrial uses, low density residential neighborhoods and high density residential developments. Immediately to the north of the site is Lot 1 of the PUD. On Lot 1 is a two-story business and professional office building. Further to the north is Westport South Commercial PUD which consists of a Walgreens pharmacy and a Sonic Drive-in restaurant. Further yet to the north is Anderson Avenue, a major commercial corridor where restaurants, commercial services, commercial retailers, a shopping center and drive-in banks are located. Along the east property line of the subject site is Lot 4, vacant land associated with the PUD, which has been identified as "future amendment." No uses or buildings are proposed at this time for Lot 4. Further to the east is the Washington Square neighborhood, which is a low density residential development. To the south is Lot 3 of the PUD, Wildcat Creek, Manhattan Optimist Ball Park and industrial uses, including storage units, warehouses, light manufacturing and offices. A business and professional office building is proposed for Lot 3. To the west of the proposed PUD are multi-family apartment complexes.

MATTERS TO BE CONSIDERED WHEN REZONING

1. **EXISTING USE:** Lot 2, New Boston Commons PUD is subject to Ordinance No. 6819 dated March 23, 2010 (*attached*). The site is vacant. Westport Place travel easement has been constructed to the east of the site to provide access to the buildings proposed in the PUD Amendment.
2. **PHYSICAL AND ENVIRONMENTAL CHARACTERISTICS:** Generally slopes from north to south, with drainage to the south. Existing structures have been demolished and the site has been graded and is vacant. The site is located outside of any mapped floodplains and is not subject to flood plain development regulations or requirements.
3. **SURROUNDING LAND USE AND ZONING:**
 - a) **NORTH:** A two-story business and professional office, Walgreens Pharmacy and Sonic drive-in restaurant, Anderson Avenue, a 5-lane arterial, drive-in banks, retail commercial, and restaurants; PUD, Lot 1, New Boston Commons Planned Unit Development, Westport South Commercial Planned Unit Development, C-2, Neighborhood Shopping District.
 - b) **SOUTH:** vacant land proposed to be a business and professional office building, Wildcat Creek, Optimist Sports Park; PUD, Lot 3, New Boston Commons Planned Unit Development, R, Single-Family Residential District, I-2, Industrial Park District.
 - c) **EAST:** Commercial retail and services, government buildings, professional offices and single-family attached homes in the Washington Square Neighborhood; C-2 District and R-2, Two-family Residential District.
 - d) **WEST:** Garden Way, a local 2-lane street, and multiple-family apartment buildings: R-3 District.
4. **GENERAL NEIGHBORHOOD CHARACTER:** See above.
5. **SUITABILITY OF SITE FOR USES UNDER CURRENT ZONING:** The site is suitable for the Permitted Uses approved with the PUD, which is limited to Business and Professional Offices.

6. COMPATIBILITY OF PROPOSED DISTRICT WITH NEARBY PROPERTIES AND EXTENT TO WHICH IT MAY HAVE DETRIMENTAL AFFECTS: The proposed amendment should have minimal impacts on adjacent properties. The proposed buildings are similar in size, architectural character and design to the building approved for Lot 2 of the Preliminary Development Plan. The site design proposed with the PUD Amendment, including the landscape plan, is similar to what was approved in March, 2010. The proposed amendment does remove twenty (20) parking spaces from the two (2) lots. The approved Preliminary Development Plan showed one (1) business and professional office building that had the potential for four (4) or more business located in it. The forty-two (42) off-street parking spaces shown on the approved Preliminary Development Plan was originally planned for a proposed sit down restaurant on Lot 2. The proposed restaurant has a significantly higher parking requirement compared to the business and professional offices that was ultimately approved with the PUD. The approved off-street parking was to accommodate the mix of offices that could be used in the building.

Based on the size of the two (2) buildings of the PUD amendment and the proposed use as a medical office; seven (7) off-street parking spaces are required on each lot. The Zoning Regulations lists medical offices as having the highest minimum parking requirements of business and professional office uses because of the typical schedule practice of medical offices. Each building will have eleven (11) parking spaces, which exceeds the minimum requirements and should be adequate for the proposed uses of the building.

7. CONFORMANCE WITH COMPREHENSIVE PLAN: The Future Land Use Map designates the site, which is shown on both the Northwest Planning Area and Southwest Planning Area maps, as RHD, Residential High Density. The Manhattan Urban Area Planning Board recommended approval of the rezoning from R, Single-Family Residential District to PUD by finding that the PUD were **CONSISTENT WITH THE OFFICE/RESEARCH PARK (OFF/RP) CATEGORY AND THE GROWTH MANAGEMENT POLICY GM 9 OF THE COMPREHENSIVE PLAN. THE PROPOSED AMENDMENT GENERALLY CONFORMS TO THE COMPREHENSIVE PLAN.**

8. ZONING HISTORY AND LENGTH OF TIME VACANT AS ZONED: The site was annexed in 1962 and zoned "A", First Dwelling House District. From 1965-1969 the site was zoned A-A, Single Family Dwelling District. From 1969 to the March 19, 2010 the site has been zoned R, Single-Family Residential District. The site was zoned from R District to PUD, New Boston Commons Planned Unit Development, on March 23, 2010. The site was part of the Riley Country shops, which was reportedly established in the 1950's and remained in operation until 2007. The site has become vacant with the preparation for the development in 2007.

9. CONSISTENCY WITH INTENT AND PURPOSE OF THE ZONING ORDINANCE:

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

The PUD Regulations are intended to provide a maximum choice of living environments by allowing a variety of housing and building types; a more efficient land use than is generally achieved through conventional development; a development pattern that is in harmony with land use density, transportation facilities and community facilities; and a development plan which addresses specific needs and unique conditions of the site which may require changes in bulk regulations or layout. The proposed PUD amendment is consistent with the intent and purposes of the Zoning Regulations, subject to the conditions of approval listed under the staff recommendation.

10. RELATIVE GAIN TO THE PUBLIC HEALTH, SAFETY AND WELFARE THAT DENIAL OF THE REQUEST WOULD ACCOMPLISH, COMPARED WITH THE HARDSHIP IMPOSED UPON THE APPLICANT: There appears to be no relative gain to the public that denial would accomplish compared to the hardship to the application. The proposed amendment is to allow the developer to sale proposed Lot 2 and reduce the amount of off-street parking to that which is more consistent with a medical office.

11. ADEQUACY OF PUBLIC FACILITIES AND SERVICES: Adequate public facilities and services are available to serve the site.

12. OTHER APPLICABLE FACTORS: None

13. STAFF COMMENTS: City Administration recommends approval of the proposed amendment of Ordinance No. 6819 and the approved Preliminary Development Plan of Lot 2, New Boston Commons Commercial PUD, to be known as the Final Development Plan of Lots 1 and 2, New Boston Commons Unit Two Commercial Planned Unit Development, subject to the following conditions:

1. All provisions of Ordinance No. 6819 that are not in conflict with this amendment shall remain in force.
2. The landscape bushes proposed for the buffer and screening of the parking lots shall be planted at a minimum of thirty (30) inches in height and shall have a maximum separation distance of three (3) feet on center to provide adequate screening of the vehicle headlights.

Attachment No. 1

3. The Agreement Creating A Restrictive Covenant on Real Estate addressing the ongoing maintenance of drainage improvements and the travel easement shall be amended as needed and filed concurrently with the Final Plat of New Boston Commons, Unit Two.

ALTERNATIVES:

1. Recommend approval of the proposed amendment of Ordinance No. 6819 and the approved Preliminary Development Plan of Lot 2, New Boston Commons Commercial PUD to be known as the Final Development Plan of Lots 1 and 2, New Boston Commons, Unit Two, Commercial Planned Unit Development, stating the basis for such recommendation.
2. Recommend denial of the proposed amendment of Ordinance No. 6819 and the approved Preliminary Development Plan of Lot 2, New Boston Commons Commercial PUD to be known as the Final Development Plan of Lots 1 and 2, New Boston Commons, Unit Two, Commercial Planned Unit Development stating the specific reasons for denial.
3. Table the proposed Amendment to a specific date, for specifically stated reasons.

POSSIBLE MOTION:

The Manhattan Urban Area Planning Board recommends approval of the proposed amendment of Ordinance No. 6819 and the approved Preliminary Development Plan of Lot 2, New Boston Commons Commercial PUD, to be known as the Final Development Plan of Lots 1 and 2, New Boston Commons, Unit Two, Commercial Planned Unit Development based on the findings in the Staff Report, subject to the three (3) conditions of approval recommended by City Administration.

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

DATE: May 24, 2011