

MINUTES
CITY COMMISSION MEETING
TUESDAY, FEBRUARY 7, 2012
7:00 P.M.

The Regular Meeting of the City Commission was held at 7:00 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, 8 staff, and approximately 35 interested citizens.

PLEDGE OF ALLEGIANCE

Mayor Sherow led the Commission in the Pledge of Allegiance.

MAYOR'S COMMUNITY SERVICE AWARD

Mayor Sherow recognized Dawson Adams, recipient of the Mayor's Community Service Award.

PROCLAMATION

Mayor Sherow proclaimed 2012, *Bicentennial of the War of 1812*. Nancy B. Williams, Regent, and Linda B. Weis, Chairman, National Special Committees-Commemorative Events, Polly Ogden Chapter, National Society Daughters of the American Revolution, were present to receive the proclamation.

PUBLIC COMMENTS

Mayor Sherow opened the public comments.

PUBLIC COMMENTS (CONTINUED)

Chris Elsey, 2052 Hunting Avenue, informed the Commission that he wanted the City to reconsider its current regulations regarding rental signage and the size of signage allowed. He also voiced concern with the difficulty he has encountered with Code officials and with the ability to build high-density development within the city limits. He asked the Commission to direct City staff to look at changing the current sign regulations to allow signage to be the same size for construction and for larger rentals and, to revisit the M-FRO District to encourage high-density development.

Ron Fehr, City Manager, provided background information on the M-FRO District and responded to questions from the Commission. He stated that this item can be discussed during the upcoming housing meeting, as a follow-up to the Housing Round Table.

Karen Davis, Director of Community Development, provided information on sign regulations and responded to questions from the Commission.

Chris Elsey, 2052 Hunting Avenue, responded to questions from the Commission regarding signage for larger housing and construction areas and the M-FRO District.

After discussion and comments from the Commission, Mayor Sherow stated that City staff will look at signage regulations and bring the item back to the Commission for review and can incorporate discussions on the M-FRO District during the Housing Round Table follow-up meeting.

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

COMMISSIONER COMMENTS

Commissioner Jankovich commended the Aggieville merchants and the Riley County Police Department in their efforts to work together, and informed the community that the meeting earlier in the day between the two groups was a productive meeting.

Mayor Sherow provided an overview of items mentioned during the Discussion/Briefing Session held prior to the City Commission Legislative Meeting. The Commission reviewed calendars; discussed agenda items for the Joint City/Riley County/Pottawatomie County Meeting; discussed a follow-up Housing Round Table meeting with a tentative date of March 7, 2012; discussed draft City Commission goals for 2012 as a result of the January 20, 2012, City Commission Retreat and Goal Setting Session; discussed future agenda and schedule changes for the City Commission February and March meetings; and discussed potential art for the roundabout on Bluemont Avenue and the efforts ongoing with the Arts and Humanities Advisory Board.

CONSENT AGENDA

(* denotes those items discussed)

MINUTES

The Commission approved the minutes of the Special City Commission Meeting held Tuesday, January 24, 2012.

CLAIMS REGISTER NOS. 2690 and 2691

The Commission approved Claims Register Nos. 2690 and 2691 authorizing and approving the payment of claims from January 18, 2012, to January 31, 2012, in the amounts of \$1,578,249.16 and \$2,638,827.53, respectively.

LICENSE

The Commission approved an annual Merchant Guard Agency License for G4S Secure Solutions (USA) Inc., 10540 Marty Street #160, Overland Park, Kansas.

FINAL PLAT – BRENT BOWMAN RESIDENCE ADDITION

The Commission accepted the easements and rights-of-way, as shown on the Final Plat of Brent Bowman Residence Addition, generally located northwest of the intersection of Poyntz Avenue and N. 14th Street, based on conformance with the Manhattan Urban Area Subdivision Regulations.

* **ORDINANCE NO. 6935 – AMEND – PRELIMINARY DEVELOPMENT PLAN – LOT 9, DOWNTOWN ENTERTAINMENT DISTRICT PUD**

The Commission overrode the Planning Board's recommendation, approved Ordinance No. 6936 amending Ordinance No. 6804 and the Preliminary Development Plan for Lot 9 of the Downtown Entertainment District PUD as proposed, and approved the Final Development Plan for Lots 1 and 4, to be known as the Downtown Entertainment District, Unit Three, Commercial Planned Unit Development, based on the findings in the Staff Report (*See Attachment No. 1*), and subject to the two conditions of approval as modified and recommended by City Administration.

FINAL PLAT – DOWNTOWN ENTERTAINMENT DISTRICT ADDITION, UNIT THREE, COMMERCIAL PLANNED UNIT DEVELOPMENT

The Commission accepted the easements and rights-of-way, as shown on the Final Plat of Downtown Entertainment District Addition, Unit Three, Commercial Planned Unit Development, generally located north of Fort Riley Boulevard, south of the Discovery Center, west of the K-18 on-ramp, and east of South 3rd Street, based on conformance with the Manhattan Urban Area Subdivision Regulations.

CONSENT AGENDA (CONTINUED)

ORDINANCE NO. 6937 – AMEND – GRAND MERE VILLAGE COMMERCIAL PLANNED UNIT DEVELOPMENT

The Commission approved Ordinance No. 6937 amending the Grand Mere Village Commercial Planned Unit Development District and Ordinance No. 6516, as proposed, and approved the Final Development Plan for Lot 12, based on the findings in the Staff Report (*See Attachment No. 2*), with the three conditions recommended by the Manhattan Urban Area Planning Board.

PUBLIC HEARING – SPECIAL ASSESSMENTS – GENERAL OBLIGATION BOND SERIES 2012-A

Mayor Sherow opened the public hearing.

Hearing no comments, Mayor Sherow closed the public hearing.

FIRST READING – SPECIAL ASSESSMENTS – GENERAL OBLIGATION BOND SERIES 2012-A

The Commission approved first reading of an ordinance levying special assessments against the benefiting properties in the following six (6) projects, which have been completed: *Grande Bluffs at Mill Pointe, Unit One – Sanitary Sewer (SS1008), Street (ST1008), and Water (WA1007); and Lee Mill Heights Addition, Unit Four, Phase Two – Sanitary Sewer (SS1009), Street (ST1012), and Water (WA1008).*

- * **RESOLUTION NO. 020712-A – TEMPORARY NOTE SERIES NO. 2012-01**
Ron Fehr, City Manager, provided additional information on the item and shared the results of the bid opening.

Commissioner Jankovich stated that he would abstain from the item.

The Commission approved accepting the best bid from UMB Bank, n.a., Kansas City, Missouri, for selling the notes; and approved Resolution No. 020712-A issuing Temporary Note Series No. 2012-01 in the amount of \$5,840,000.00 to finance the following 11 capital and special assessment projects to be debt financed: *Fire Station #5 (FR775P); Fire Station #3 (FRX75P); Fire Pumper Apparatus Truck (Station #5) (FR775P); Zoo Education Building (SZ0901); Bellerive Addition, Sanitary Sewer (SS1119), Street (ST1112), and Water (WA1113) Improvements; Lee Mill Heights Addition, Unit 7, Sanitary Sewer (SS1117), Street (ST1110), and Water (WA1102) Improvements; and Shuss Road (ST1111).*

CONSENT AGENDA (CONTINUED)

RESOLUTION NO. 020712-B – SUPPORT – HOUSING TAX CREDIT – STONE POINTE TOWNHOMES

The Commission approved Resolution No. 020712-B indicating the City of Manhattan's support for the Manhattan Area Housing Partnership to apply for tax credits from the State of Kansas, for an affordable housing development in Stone Pointe Townhomes Addition.

APPLICATION – PASSENGER FACILITY CHARGE

The Commission authorized the Mayor to sign the Passenger Facility Charge Application to impose and use a Passenger Facility Charge at the Manhattan Regional Airport (beginning on or about May 1, 2012, with an expiration date of May 1, 2014).

PURCHASE– PARKS DIVISION – TRACTOR (CIP #CP016E)

The Commission approved the purchase of one Kubota Model MX 4700 tractor with front end loader in the amount of \$18,700.00 from KanEquip, Inc., of Wamego, Kansas, to replace Parks Division Unit #776, to be paid from the Special Parks and Recreation Fund.

BOARD APPOINTMENT – HOUSING AUTHORITY BOARD OF COMMISSIONERS

The Commission approved the appointment of Jamie Schrock, 5121 Vista Acres Drive, to a four-year term. Ms. Schrock's term will begin March 4, 2012, and will expire March 3, 2016.

After discussion and comments from the Commission, Commissioner Jankovich moved to approve the consent agenda, as read. Commissioner Matta seconded the motion. On a roll call vote, motion carried 5-0, with the exception of Item E, ORDINANCE NO. 6935 – AMEND – PRELIMINARY DEVELOPMENT PLAN – LOT 9, DOWNTOWN ENTERTAINMENT DISTRICT PUD, which carried 4-1, with Commissioner Pepperd voting against the motion; and, with Item I, RESOLUTION NO. 020712-A – TEMPORARY NOTE SERIES NO. 2012-01, which carried 4-0-1 with Commissioner Jankovich abstaining on the item.

GENERAL AGENDA

FIRST READING – ENFORCEMENT OF OVERCROWDING VIOLATIONS

Mayor Sherow introduced the item.

GENERAL AGENDA (CONTINUED)

FIRST READING – ENFORCEMENT OF OVERCROWDING VIOLATIONS (CONTINUED)

Commissioner Jankovich moved to remove the item from the table and reconsider first reading of an ordinance regarding enhanced enforcement of overcrowding violations. Commissioner Butler seconded the motion. On a roll call vote, motion carried 3-2, with Commissioners Pepperd and Matta voting against the motion.

Lauren Palmer, Assistant City Manager, provided background information on the item, the current process of overcrowding enforcement, the proposed minimum penalty for violators, and the proposed recommendations. She then responded to questions from the Commission regarding current overcrowding procedures and penalties.

Katherine Jackson, Deputy City Attorney, provided clarification on the proposed ordinance and state law regarding alcohol related violations and enforcement measures. She then responded to questions from the Commission regarding overcrowding citations and related overcrowding issues with other businesses.

Jerry Snyder, Director of Fire Services, responded to questions from the Commission regarding overcrowding and staffing challenges associated with enforcement in bars in Aggieville. He then responded to questions from the Commission.

Ryan Almes, Deputy Chief of Technical Services, provided additional information on the item and responded to questions from the Commission regarding overcrowding issues in Aggieville.

Katherine Jackson, Deputy City Attorney, responded to questions from the Commission regarding the proposed ordinance and the narrative report filed with the prosecutor.

Bill Frost, City Attorney, provided clarification on the responsible party for a violation and the ability to expand the authority of the Riley County Police Department to enforce overcrowding with the proposed ordinance.

Lauren Palmer, Assistant City Manager, and Ryan Almes, Deputy Chief of Technical Services, provided additional clarification on the current process in dealing with overcrowding and in seeking compliance.

Tim Hegarty, Captain, Riley County Police Department, informed the Commission that the police department needs to ensure safety and security for everyone, including the people in the bars. He stated that the issue of problems in the neighborhoods and bars are not the same thing. He then responded to questions from the Commission regarding the need to provide the police department the ability to deal with overcrowding in a timely manner, as the Manhattan Fire Department has limited resources.

GENERAL AGENDA (CONTINUED)

FIRST READING – ENFORCEMENT OF OVERCROWDING VIOLATIONS (CONTINUED)

Ryan Almes, Deputy Chief of Technical Services, responded to questions from the Commission regarding the factors that determine occupancy limits and the process the Fire Department uses to determine accurate counts. He informed the Commission that it is an internal policy that Fire Department personnel are in uniform when conducting counts.

Brad Schoen, Director, Riley County Police Department (RCPD), informed the Commission that if the proposed ordinance passes, Riley County Police Department officers would receive training and adopt the same practices and procedures as the Manhattan Fire Department. He then responded to questions from the Commission about feelings of distrust with some of the bar owners with RCPD and conversations and meetings that he has had with several businesses in Aggieville to improve communications. He reiterated that RCPD has a duty to enforce City ordinances and state statutes to ensure public safety, while providing officers with the discretion to enforce the codes and laws judiciously and appropriately.

Rob Goode, Owner, So Long Saloon and Taco Lucha, informed the Commission that he has been in business for over 20 years in Aggieville and stated that the meeting with Commissioner Butler, Aggieville Business Association, Riley County Police Department, and others a few weeks ago had never occurred during his tenure. He stated that it was a good meeting and discussed overcrowding, how to improve Fake Patty's Day, and felt that these concerns were moving in a positive direction. However, he stated that the proposed ordinance back in front of the Commission so soon was a little bit of a slap in the face and asked the Commission to wait and not rush into approving the ordinance. He then responded to questions from the Commission and stated that the relations with RCPD and Aggieville bar owners are not good and voiced concern with RCPD issuing citations.

Ryan Bramhill, Owner, Tubby's Sports Bar in Aggieville, informed the Commission that they are trying to make this work and improve relationships with the Riley County Police Department. He asked that the Commission give them more time to improve their communications with RCPD and to not approve the proposed ordinance. He then responded to questions from the Commission regarding occupancy counts and additional number of people during the week nights in Aggieville.

Brad Schoen, Director, Riley County Police Department, provided additional information on the increased activity associated with events at varying establishments in Aggieville.

Lauren Palmer, Assistant City Manager, provided clarification on the proposed ordinance and provisions for the Riley County Police Department to have the ability to enforce overcrowding throughout the year, with or without the Manhattan Fire Department.

GENERAL AGENDA (CONTINUED)

FIRST READING – ENFORCEMENT OF OVERCROWDING VIOLATIONS (CONTINUED)

Ryan Almes, Deputy Chief of Technical Services, responded to questions from the Commission and explained the criteria in establishing occupancy loads.

Tim Clark, Architect, informed the Commission that he works with businesses in dealing with occupancy levels and provided examples of considerations when determining occupancy loads. He stated that Manhattan has experienced a growing population and has the same square footage in Aggieville over the last 30 years. He asked the Commission to consider incorporating public bathrooms, seeking design solutions, and helping small businesses to be successful; rather than implementing the proposed ordinance. He then responded to questions from the Commission and asked that a long-range approach be considered.

Shirley Bramhill, 1608 Cedar Crest, mother of Ryan Bramhall, informed the Commission that she has been involved with the Aggieville Business District and the Aggieville Safety Committee. She stated that there has been an improved dialog between the Riley County Police Department, Manhattan Fire Department, and Aggieville bar owners. She asked the Commission what is the big rush with the proposed ordinance and requested that they be allowed additional time and to continue the positive dialog and communication. She then responded to questions from the Commission why many bar owners were not present due to the K-State basketball game and stated that she did not receive notice of tonight's agenda until last Friday afternoon.

Brad Schoen, Director, Riley County Police Department, provided clarification that the meeting held earlier in the day was the RCPD Community Advisory Board meeting and was not a City meeting.

Lauren Palmer, Assistant City Manager, responded to questions from the Commission regarding notification and communication for tonight's City Commission meeting.

Bill Frost, City Attorney, provided clarification that the Riley County Police Department enforces other City codes and stated that the amendment relating to overcrowding would take out the provision from the International Fire Code and would go into the City's Code of Ordinances.

Katherine Jackson, Assistant City Attorney, and Ryan Almes, Deputy Chief of Technical Services, responded to additional questions from the Commission and provided information on the history of overcrowding citations and on the narrative provided.

Bill Frost, City Attorney, provided clarification on the process with Municipal Court.

GENERAL AGENDA (CONTINUED)

FIRST READING – ENFORCEMENT OF OVERCROWDING VIOLATIONS (CONTINUED)

Katherine Jackson, Deputy City Attorney, and Bill Frost, City Attorney, responded to questions from the Commission and provided recommendations regarding the minimum and maximum fines.

Brad Schoen, Director, Riley County Police Department, informed the Commission that there needs to be some distinction between a minimum and maximum fine structure to provide an incentive to comply.

Jerry Snyder, Director of Fire Services, informed the Commission that the Manhattan Fire Department would continue to maintain a presence in Aggieville during big events, but would need additional staff to provide a constant presence in Aggieville.

Bill Frost, City Attorney, provided additional information on the proposed ordinance and clarified the ability to allow officials from both the Riley County Police Department and the Manhattan Fire Department to require an entity to cease doing business until the business is in compliance with occupancy limits.

Brad Schoen, Director, Riley County Police Department, informed the Commission that the goal is to achieve compliance.

Ryan Almes, Deputy Chief of Technical Services, reiterated the procedure for overcrowding in order to get businesses back at the required maximum occupancy levels.

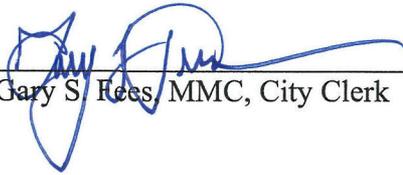
After discussion and comments from the Commission, Bill Frost, City Attorney, provided clarification on the draft ordinance for first reading and responded to questions from the Commission.

After additional discussion and comments from the Commission, Commissioner Butler moved to approve first reading of an ordinance to allow the Riley County Police Department to issue citations and enforce overcrowding in addition to, and in the same manner, as the Manhattan Fire Department. Commissioner Jankovich seconded the motion. On a roll call vote, motion carried 3-2, with Commissioners Pepperd and Matta voting against the motion.

Mayor Sherow announced the City Commission meetings schedule for February and March, with the next Special City Commission meeting to be held on February 28, 2012.

ADJOURNMENT

At 9:43 p.m., the Commission adjourned.



Gary S. Fees, MMC, City Clerk

STAFF REPORT

AN AMENDMENT OF ORDINANCE NO. 6804 AND THE APPROVED PRELIMINARY DEVELOPMENT PLAN OF LOT 9, DOWNTOWN ENTERTAINMENT DISTRICT PUD DEVELOPMENT PLAN FOR PROPOSED LOTS 1-6, AND THE FINAL DEVELOPMENT PLAN FOR PROPOSED LOTS 1 AND 4.

BACKGROUND

APPLICANT: Flint Hills Square, LLC – Gwyn E. Riffel, Manager and City of Manhattan.

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

OWNER: City of Manhattan.

ADDRESS: 1101 Poyntz Avenue, Manhattan, KS 66502.

LOCATION: Lot 9 is generally located north of Ft. Riley Boulevard, south of the Discovery Center, west of the K-18 on-ramp, and east of S. 3rd Street.

AREA: Existing Lot 9 (172,979 square feet), Downtown Entertainment District Addition.

Proposed Lots 1-6 – PUD Amendment

Proposed Downtown Entertainment District Addition, Unit Three: Lot 1 (17,804 square feet); Lot 2 (37,367 square feet); Lot 3 (20,166 square feet); Lot 4 (45,325 square feet); Lot 5 (33,798 square feet); and, Lot 6 (17,781 square feet).

Proposed Lot 7

*(NOTE: Proposed Lot 7, a replat of existing Lot 8, Downtown Entertainment District Addition, is shown on amendment for reference only. **Proposed Lot 7 is not part of the amendment of Lot 9;** however, proposed Lot 7 is included on the Final Plat of the proposed Downtown Entertainment District, Unit Three Addition, to vacate an existing utility easement and to accommodate the placement of the Candlewood Suites hotel along its western lot line with proposed Lot 7.*

Attachment No. 1

The placement of the hotel on proposed Lot 1 at a zero foot setback on the western lot line, which adjoins proposed Lot 7, requires a minimum building code setback from the property line in order for the hotel to have the openings (windows and doors) proposed. The reasoning behind this requirement is to reduce the chance of fire spread from one structure to another. However, as an alternative to the building code requirement, a 30 foot wide open space is provided along the entire length of the eastern lot line of proposed Lot 7 to ensure building code requirements are met, which will allow the hotel to be constructed as proposed at the western property line of proposed Lot 1. A note is added to the Final Plat describing the improvements, landscaping and other matters that will be addressed by either an easement or restrictive covenant and filed separately with the Riley County Register of Deeds. A note is added to the Final Plat describing the improvements, landscaping and other matters that will be addressed by either an easement or restrictive covenant and filed separately with the Riley County Register of Deeds.)

DATE OF PUBLIC NOTICE PUBLICATION: Thursday, December 15, 2011.

DATE OF PUBLIC HEARING: PLANNING BOARD: Thursday, January 5, 2012.

CITY COMMISSION: Tuesday, January 24, 2012.

EXISTING PUD:

Ordinance

Downtown Entertainment District Planned Unit Development and Ordinance No. 6804 dated December 15, 2009 (attached).

Permitted Uses

The permitted uses in the PUD include all of the Permitted Uses of the C-4, Central Business District.

The Downtown Entertainment District is, in general, an extension of the Central Business District. The PUD currently consists of a hotel, conference center, parking garage, museum, a city park, off-street parking, landscaping, signage and other improvements. Residential dwelling units and a broad range of retail, commercial services such as restaurants, and office uses were indicated in the approved PUD as potential occupants of built or future structures.

Attachment No. 1

The Preliminary Development Plan site plan approved in 2009 is attached and shows the relationship of Lot 9 to the balance of the PUD. Lot 9 is described as a “Future Amendment” with its footprint and uses to be determined by the City Commission.

Proposed Use

The amendment proposes to add Drive-in Restaurants as a Permitted Use in the PUD. In this instance, the drive-in restaurant, which will accommodate the patron's automobiles from which the occupants of the automobiles may make purchases from a window proposed on the east side of the mixed use building on proposed Lot 3.

Design Guidelines for Downtown Redevelopment

Existing Lot 9 is within the South Project Area of the Downtown Redevelopment Plan. The Downtown Redevelopment-Entertainment District Design Guidelines (attached with applicant documents, Appendix A) apply to the proposed development.

The Design Guidelines for Downtown Redevelopment set out policy, intent, and conditions; site guidelines; building guidelines; supplemental guidelines for large format retail design and small scale residential guidelines; and, checklists for site and building guidelines. The Guidelines are not regulations. The Guidelines are for developers, architects, owners and decision makers for reviewing and evaluating proposals and design quality. Exceptions to the Guidelines may be considered if the overall intent of the Guidelines has been met.

A letter from Patrick Schaub, AIA, Bowman Bowman Novick Inc., dated December 27, 2011, comments on Design Guideline requirements with respect to the proposed amendment of Lot 9 (Note: Number 7 is missing in the letter and is presumed to be a typo.) The applicant has responded in the attached written documents, Appendix I, to each Guideline and has requested Exceptions of the Design Guidelines noted in their response.

Exceptions to the Guidelines may be considered by the Planning Board and City Commission if it is determined that the overall intent of the Design Guidelines has been met. The overall intent of the Guidelines is expressed in several statements found on pages 2-1 to 2-3, which generally include:

The Guidelines are generally intended to provide a mix of uses and a pedestrian and bicycle friendly commercial area with connection to the downtown core and residential neighborhoods; increase the economic and cultural vitality of the downtown; incorporate sustainable design; and, other development intents.

Overall, the intent of the Guidelines is met. City Administration concurs with the applicant's consultant and recommends that the Exceptions be approved based on the information provided by the consultant.

PROPOSED AMENDMENTS:

Proposed Uses, Buildings, Structures, and Phasing

Proposed Lot 1: A four story 84 room Candlewood Suites hotel is proposed on Lot 1. A portion of the rooms are intended for extended stay. There is no meeting/conference or restaurants in the hotel. Exterior materials consist of limestone, brick and EFIS. The hotel has 84 rooms, exercise, vending, laundry, office and mechanical and similar support space, but does include restaurant or meeting space. Construction phasing: Spring – Fall 2012.

Proposed Lot 2: A four story 76 room Holiday Inn Express is proposed on Lot 2. Exterior materials consist of limestone, brick and EFIS. The hotel has 76 rooms, a small pool, meeting room, eating space, and lounge, or multi-purpose space such as meetings, office and mechanical and similar support space. Construction phasing: to be determined.

Proposed Lot 3: A four story mixed use building with commercial floor on the first floor, which may include a drive-in restaurant on the east side of the building; second story office space; and third and fourth floors office and residential. The residential space consists of three, one-bedroom dwelling units and four, two bedroom dwelling units. Exterior materials consist of limestone and brick. Construction phasing: Construction phasing: to be determined.

Proposed Lot 4: A public parking lot associated with Lot 1 for the purpose of assigning maintenance responsibilities of the public parking lot. There are 91 off-street parking spaces on Lot 4. Construction phasing: Spring – Fall 2012.

Proposed Lot 5: A public parking lot associated with Lot 3 for the purpose of assigning maintenance responsibilities of the public parking lot. There are 69 off-street parking spaces on Lot 5. Construction phasing: Construction phasing: to be determined.

Proposed Lot 6: A public parking associated with Lot 2 for the purpose of assigning maintenance responsibilities of the public parking lot. There are 48 off-street parking spaces on Lot 6. Construction phasing: Construction phasing: to be determined.

Attachment No. 1

Maintenance responsibilities for the public parking lots associated with the hotel and mixed use lots will be assigned to the individual lot when ownership of Lots 1-3 are conveyed to each separate lot.

PROPOSED SIGNS: The hotels will use illuminated wall signs and dimensions are shown on building facades. The mixed use building has proposed wall signs, and projecting signs for pedestrians, as well as a projecting identification sign on the northwest corner of the building. Signs are located over building entrances or on wall space, as depicted on elevation drawings. Signs conform to the Design Guidelines and, in general, to the requirements of the C-4, Central Business District.

Condition 4 in Ordinance No. 6804 is modified regarding exempt signage due to updating of the sign provisions for exempt signage since the PUD was approved in 2009.

PROPOSED LIGHTING: Light poles will be 25-30 feet in height in the parking lots and 12 feet tall along pedestrian routes. Light fixtures will be provided on individual buildings according to architectural plans and not cast direct light on streets or adjacent property.

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

1. WHETHER THE PROPOSED AMENDMENT IS CONSISTENT WITH THE INTENT AND PURPOSE OF THE APPROVED PUD, AND WILL PROMOTE THE EFFICIENT DEVELOPMENT AND PRESERVATION OF THE ENTIRE PUD: The proposed amendment is consistent with the intent and purpose of approved Preliminary Development Plan. Approval of the proposed amendment will ensure the efficient development and preservation of the entire PUD and development of Lot 9.

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

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 necessary because the City Commission's accepted the proposed amendment of Lot 9.

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 health, safety, and general welfare by allowing the PUD to develop a vacant tract of land in the format determined by the City Commission. The proposed amendment will ensure the overall development is completed.

The proposed amendment will not be granted as a special benefit to any one person. The proposed amendment is in response to the desire by the City Commission to develop Lot 9 for multiple-tenants.

ADDITIONAL MATTERS TO BE CONSIDERED WHEN AMENDING A PLANNED UNIT DEVELOPMENT

1. LANDSCAPING: The proposed landscape plan depicts a variety of shade and ornamental trees, evergreen trees, shrubs, foundation plantings, parking lot landscaping, screening, and ground cover throughout the site, with some sites conceptual or to be determined with a Final Development Plan or a future amendment. As provided, the landscaping plan conforms, in general, to the requirements of the Design Guidelines, subject to approval of the requested Exceptions. Underground irrigation is proposed to maintain the landscaping, which will be maintained by the owners of Lots 1-3 and the associated parking lots.

2. SCREENING: The Candlewood Suites and Holiday Inn Express will share a gated and enclosed six foot tall brick trash container area, which will be located on the Holiday Inn Express' property. A private cross easement will allow the Candlewood Suites to use the enclosed trash container area, which will be built with Candlewood Suites. The mixed use building also provides an enclosed trash container area on the south side of the building of similar design.

Rooftop equipment will be screened by parapet walls on hotel rooftops, if rooftop equipment is placed on the roof. The mixed use building's rooftop equipment will be screened by parapet walls as noted on the floor plan sheet.

In addition, parking lots will be buffered with a landscape hedge along street frontages. The dense hedge row must be planted at minimum 30-inches in height at the time of planting to screen headlights from streets and adjacent properties.

Attachment No. 1

3. DRAINAGE: The site is proposed to drain to the south to the Kansas River through storm inlets and storm water sewer pipe improvements. Adequate inlets and improvements will be provided to assure the drainage system is functional. A comprehensive drainage plan, the Downtown Entertainment District Drainage Impact Study, Appendix E, submitted by HWS for the project area was reviewed and accepted by the City Engineer with the rezoning to PUD in December, 2009.

4. CIRCULATION: The proposed internal circulation plan provides for safe, convenient and efficient movement of goods, motorists, and pedestrians. Conflicts between motorists, bicyclists and pedestrians should be minimized. The site will be accessed from the surrounding street system. Internal public streets will provide access to all lots in the PUD. Sidewalks are proposed throughout the site, but not along Ft. Riley Boulevard. In lieu of a sidewalk on Ft. Riley Boulevard to the Union Pacific Depot, internal sidewalk connections are proposed to connect with the Union Pacific Depot and public sidewalk on the west side of Ft. Riley Boulevard connecting to Manhattan Town Center. Blue Earth Place, a travel easement, provides the hotels and mixed use lots with direct access to a public street. A restrictive covenant regarding maintenance responsibilities will be part of the transaction to sell the hotel and mixed use lots to future owners when conveyance of the properties occur.

Appendix F consists of a George Butler and Associates provided a memorandum dated October 28, 2005 of traffic analyses for the entire North and South Project Area, which indicates nominal impact on the surrounding transportation network as a result of the proposed rezoning. Appendix F also includes an Update to South Redevelopment Traffic Study from HWS dated October 10, 2011, reflects changes to land use considered with the GBA memorandum. The City Engineer reviewed and accepted the analysis.

As a part of the mixed use building, a proposed drive-in restaurant will be located on the east side of the building with vehicle stacking on the south and east sides of the building. Adequate stacking distance, of approximately 200 feet from the drive-in window to slightly east of the right in, and would accommodate about ten vehicles is available. Circulation is counterclockwise with entry to the order board from the west and exiting to the east to Blue Earth Place. The specific restaurant is not identified. Typical to a drive-in restaurant is signage designed to attract to the motoring public, which generally consists of pole signs. That type of signage is not proposed, so it is reasonable to conclude that the typical desire of a drive-in restaurant to gain the motorists' attention will not be a factor.

Off-Street Parking

Using the standard parking ratios of the Manhattan Zoning Regulations: Candlewood Suites requires one space per room plus two, or 86 spaces; Holiday Inn Express requires one space per room plus two, or 78 spaces; the first floor commercial space is an estimate based on the space occupied by a restaurant and would require 101 spaces, which is likely on the high side; office space is an estimate requiring 37 spaces, also on the high side; and the residential requiring 18 parking spaces. Commercial and office is high and does not account for storage, bathrooms, mechanical space and other similar space that does not generate parking demand.

Total demand using the standard parking ratios is 320, or 112 less than the 208 proposed parking spaces on Lots 4-6. However, the Zoning Regulations do not require off-street parking for any use in the C-4 District. Parking could be provided which meets standard ratios but that would sacrifice development of retail, office and service floor spaces. In addition, there are 22 parking spaces on S. 3rd Street that may satisfy some demand as well as the parking garage, which has 436 parking spaces and will absorb overflow from not only Lots 1-3, but all of the uses in the entire PUD.

Off-street parking should be adequate. The off-street parking proposed is represents a maximization to the greatest extent possible to meet future demand. There may be periods when parking demand exceeds the amount available, which should occur in limited circumstances.

5. OPEN SPACE/LANDSCAPED AND COMMON AREA: Approximately 30% of the site is green space. There are no common area tracts set aside other than, in general, the shared public parking lots.

6. CHARACTER OF THE NEIGHBORHOOD: Lot 9 is part of the Downtown Entertainment District and is generally considered the southern limits of the Central Business District. Lot 9 adjoins Blue Earth Park, a city parking, and the Discovery Center to the north. To the west is S. 3rd Street, Blue Earth Park, which is a public park, parking garage, conference center, and Hilton Garden Inn. To the south and east are Ft. Riley Boulevard and its on-ramp. To the south of Ft. Riley Boulevard are commercial and industrial uses. Nearby historic properties potentially include the Union Pacific Depot to the east of the on-ramp and the Downtown Manhattan Historic District to the north.

MATTERS TO BE CONSIDERED WHEN REZONING

1. EXISTING USE: An approximate four acre (3.96 acres) tract of land, which has been cleared of existing structures and other surface improvements such as street pavement.

2. PHYSICAL AND ENVIRONMENTAL CHARACTERISTICS: Generally flat with existing drainage to the east and south to storm sewer inlets. The site is located in a 500 Year Flood Plain and is not subject to flood plain development regulations.

3. SURROUNDING LAND USE AND ZONING:

- (a.) **NORTH:** Discovery Center; Downtown Entertainment District PUD.
- (b.) **SOUTH:** Ft. Riley Boulevard, service commercial; LM-SC, Light Manufacturing-Service Commercial District.
- (c.) **EAST:** On ramp to K-18 Highway, Depot; LM-SC District.
- (d.) **WEST:** S. 3rd Street, Hilton Garden Inn, Conference Center, Parking Garage, Retail; Downtown Entertainment District PUD.

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

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

6. COMPATIBILITY OF PROPOSED DISTRICT WITH NEARBY PROPERTIES AND EXTENT TO WHICH IT MAY HAVE DETRIMENTAL AFFECTS: The proposed amendment and Final Development Plan are consistent with the commercial nature of the approved PUD and developed properties in the PUD. Expected increases in traffic, light, and noise will be consistent with the predominately commercial character of the neighborhood. Residential properties near the site are a smaller part of the neighborhood. Minimal impacts on adjacent properties are anticipated and no detrimental effects are expected. Adequate off-street parking, landscaping, screening, lighting, storm water drainage improvements, and pedestrian and vehicular circulation improvements are provided, which mitigate impacts on surrounding properties. The amendment site is separated from residential areas to the west by the hotel, conference center and parking garage, and is otherwise bounded by streets and development in the PUD.

Attachment No. 1

Historic properties potentially impacted by the proposed project include the Union Pacific Depot and the Downtown Manhattan Historic District. The Manhattan Historic Resources Board reviewed the proposed project at its meeting on October 21, 2011, and found that the proposed project, “Meets the *Standards and Guidelines for Evaluating the Effect of Projects on Environs* and will not encroach upon, damage or destroy any listed historic property or its environs”, (attached letter dated October 27, 2011, from Lance Evans, AICP, Senior Planner, and Staff Liaison to the Manhattan Historic Resources Board to Jennie A. Chinn, Executive Director/State Historic Preservation Officer (SHPO).) The SHPO letter (attached), dated November 2, 2011 reviewed the materials associated with the project in accordance with the state preservation statute. The letter states that, “The SHPO has determined the proposed project will not encroach upon, damage, or destroy any listed historic property or its environs. As far as this office is concerned, the project may proceed.” No detrimental effects on historic properties are expected based on local and state review of the proposed rezoning.

7. CONFORMANCE WITH COMPREHENSIVE PLAN: The Manhattan Urban Area Comprehensive Plan shows the site as Central Core District (CCD), which is a special purpose designation for the Downtown Core. The amendment and Final Development Plan location is also designated as a primary redevelopment area for expansion of the Central Business District, in Downtown Tomorrow – A Redevelopment Plan for Downtown Manhattan, Kansas, adopted in May 2000.

The proposed amendment and Final Development Plan conform to the Comprehensive Plan.

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

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

Attachment No. 1

- December 1, 2009 City Commission approves first reading of an ordinance rezoning the proposed Downtown Entertainment District from C-4, Central Business District; C-5, Highway Service Commercial District with RDO, Redevelopment District Overlay; and, LM-SC, Light Manufacturing-Service Commercial District, to PUD, Commercial Planned Unit Development District.
- December 15, 2009 City Commission approves Ordinance No. 6804 rezoning the proposed Downtown Entertainment District from C-4, Central Business District; C-5, Highway Service Commercial District with RDO, Redevelopment District Overlay; and, LM-SC, Light Manufacturing-Service Commercial District, to PUD, Commercial Planned Unit Development District; and accepts the easements and rights-of-way as shown on the Final Plat of the Downtown Entertainment District Addition.
- January 20, 2010 Manhattan Urban Area Planning Board approves the Final Development Plan for Lots 1-4 of the Downtown Entertainment District Commercial PUD on a vote of 4-0.
- February 18, 2010 Manhattan Urban Area Planning Board sets aside the Final Plat approved on November 6, 2009, and approves the Revised Final Plat of the Downtown Entertainment District Addition.
- February 23, 2010 City Commission accepts the rights-of-ways and easements of the Downtown Entertainment District Addition.

Existing Lot 9 has been vacant for approximately two years.

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

Proposed Amendment

Based on the proposed amendment and Final Development Plan, the combination of hotels and mixed use buildings are consistent with the Downtown Entertainment District and are appropriate uses consistent with the intent and purpose of the Manhattan Zoning Regulations, subject to the conditions of approval.

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. Minimal impact on the public is expected as a result of traffic and storm water. Transportation and storm water proposals are consistent with the policies of the City. In addition, significant public investment has occurred in the project area and approval of the amendment is a key component of the financial investment described below. Denial of the amendment would be a hardship on the owner because no adverse effects on the public are expected.

Financial Impact

The PUD is consistent with final development agreement that has been entered into with the City Commission. The Commission recognizes the sales tax and property tax being generated from these improvements that will support both the Tax Increment Finance (TIF) bonds and the STAR bonds. The general make-up of use within the South District is consistent with the STAR bond application and approval by the State of Kansas. The Discovery Center is the catalyst for the State's commitment to assist in the financing. The City also needs to recognize the private investment necessary to leverage the State's investment of \$50M in STAR bonds. The City and developer are required to match the \$50M in STAR bonds with \$58 M in private/public investment. Total investment for Lot 9 has been submitted at just over \$17 million, well over the \$15 million required from the remaining property on Lot 9 to match the STAR bonds. The two hotels and mixed use building are key financial commitments necessary to leverage the State's investment in the South STAR bond district.

11. ADEQUACY OF PUBLIC FACILITIES AND SERVICES: Adequate public streets, sanitary sewer and storm sewer, fire hydrants, streets, and sidewalks will be provided.

12. OTHER APPLICABLE FACTORS: None.

Attachment No. 1

13. STAFF COMMENTS: All provisions of Ordinance No. 6804 that are not in conflict with this amendment shall remain in force. Condition 4, in Ordinance No. 6804, is modified regarding exempt signage due to updating of the sign provisions for exempt signage since 2009 when the PUD was approved.

City Administration recommends approval of the proposed amendment of Ordinance No. 6804 and the approved Preliminary Development Plan of Lot 9 for Lots 2, 3, 5, and 6; and, approval of the Final Development Plan of Lots 1 and 4, in the Downtown Entertainment Commercial Planned Unit Development District, to be known as the Downtown Entertainment District, Unit Three, Commercial Planned Unit Development, subject to the following condition:

1. Drive-in Restaurants shall be a Permitted Use in the Downtown Entertainment District, Unit Three, Commercial Planned Unit Development.
2. Signs shall be provided as proposed in the application documents, and shall allow for exempt signage described in Article VI, Section 6-104 (A)(1),(2),(4),(5),and (7); and, Section 6-104 (B)(2) and B(5), of the Manhattan Zoning Regulations.

ALTERNATIVES:

1. Recommend approval of the proposed amendment of Ordinance No. 6804 and the approved Preliminary Development Plan of Lot 9 for Lots 2, 3, 5, and 6; and, approval of the Final Development Plan of Lots 1 and 4, in the Downtown Entertainment Commercial Planned Unit Development District, to be known as the Downtown Entertainment District, Unit Three, Commercial Planned Unit Development, stating the basis for such recommendation.
2. Recommend denial of the proposed amendment of Ordinance No. 6804 and the approved Preliminary Development Plan of Lot 9 for Lots 2, 3, 5, and 6; and, approval of the Final Development Plan of Lots 1 and 4, in the Downtown Entertainment Commercial Planned Unit Development District, to be known as the Downtown Entertainment District, Unit Three, 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. 6804 and the approved Preliminary Development Plan of Lot 9 for Lots 2, 3, 5, and 6; and, approval of the Final Development Plan of Lots 1 and 4, in the Downtown Entertainment Commercial Planned Unit Development District, to be known as the Downtown Entertainment District, Unit Three, Commercial Planned Unit Development, based on the findings in the Staff Report, subject to the two conditions of approval recommended by City Administration.

PREPARED BY: Steve Zilkie, AICP, Senior Planner

DATE: December 30, 2011

STAFF REPORT

AN AMENDMENT OF ORDINANCE NO. 6516 TO ADD GROUP DAY CARE CENTERS AS A PERMITTED USE IN THE GRAND MERE VILLAGE PLANNED UNIT DEVELOPMENT DISTRICT. THE AMENDMENT INCLUDES A FINAL DEVELOPMENT PLAN FOR A PROPOSED GROUP DAY CENTER ON LOT 12, GRAND MERE VILLAGE ADDITION.

BACKGROUND

APPLICANT: War Eagle, LLC – Zac Burton.

ADDRESS: 3720 Seth Child Road, Manhattan, KS 66502.

OWNER: Grand Mere Development Inc. – Mary Vanier.

ADDRESS: 2021 Vanesta Place, Suite A, Manhattan, KS 66503.

LOCATION: Grand Mere Village PUD, which is north of the intersection of Vanesta Drive and Kimball Avenue. The proposed Group Day Care Center is generally located 650 feet west of the intersection of Vanesta Drive and Vanesta Place.

AREA: Grand Mere Village PUD: Lot 12 – 1.27 acres; 55,212 square feet.

DATE OF PUBLIC NOTICE PUBLICATION: Thursday, December 15, 2011.

DATE OF PUBLIC HEARING: PLANNING BOARD: Thursday, January 5, 2012.

CITY COMMISSION: Tuesday, January 24, 2012.

EXISTING PUD:

The PUD is a mixed use development with 13 lots ranging in size from approximately 0.5 acres up to 2.9 acres. There is an existing retail commercial shopping building on Lot 5, a municipal fire station under construction on Lot 6, an existing office building on Lot 10, and a homecare and hospice facility on Lot 13. In addition to the 13 lots there are two tracts, Tract A, a 15.17 acre open space/flood plain, and Tract B, a 2.41 acre open space/drainage easement. Tracts C and D are travel easements (attachment).

Ordinance

Grand Mere Village Planned Unit Development and Ordinance No. 6516, dated December 20, 2005 (attached).

Permitted Uses

The permitted uses in the PUD include all of the Permitted and Conditional Use of the C-2, Neighborhood Shopping District, Municipally Owned and Operated Fire Stations; Bed and Breakfast Inns, Hospitals and Nursing homes; and, Residential Dwelling Units as a part of an Office, Retail or Restaurant Use.

PROPOSED AMENDMENTS:

The proposed amendment of Ordinance No. 6516 adds Group Day Care Centers as a Permitted Use in the PUD. The proposed Creche Daycare on Lot 12 is proposed in the form of a Final Development Plan.

Group Day Care Centers is defined in the Manhattan Zoning Regulations as, “A facility which is primarily designed, intended, or used for the providing of care for seven (7) or more children, for part or all of a day, away from the home of the parent or legal guardian.”

The applicant has been in touch with the Riley County Health Department to ensure the requirements for child care license is obtained per state regulations.

PROPOSED USE: The application documents indicate the day care is generally a 6 AM to 6PM Monday thru Friday operation with annual occasions outside Monday thru Friday operations. The facility is being designed to accommodate up to 94 children serving infants through school age children. Total employee count is 17 persons.

PROPOSED BUILDING: The day care building’s two floors provide space for different age groups, infant through school age and in various combinations, receptionist area, office, kitchen, storage, storm shelter on the lower floor level, mechanical and similar space. Due to the grade change from southwest to northeast, the building is approximately 21 feet in height on the street grade and 37 feet in height on the downhill side. Exterior materials are brick, stone, cement board lap siding, and architectural roof shingles.

An existing 8-foot tall rock wall, wood gated trash storage area is along Vanesta Place.

Attachment No. 2

A limestone retaining wall is proposed along the rear of the building due to the grade change between the street grade and the rear of the building.

Two play areas are proposed with one on the southeast side of the building at street grade and a larger play area on the north side of the building. Both are enclosed by 6-foot aluminum tube fencing. Each play area has a range of playground equipment and play areas in landscaped space.

Sidewalks connect the upper and lower levels to sidewalks on Vanesta Place.

PROPOSED SIGNS: Two unlit, 3.5 foot tall, limestone monument signs are proposed on either side of the private sidewalk leading to the front door of the day care. Two small plaques on either monument identify the name and address of the day care. Condition 5 in Ordinance No. 6516 is modified regarding exempt signage due to updating of the sign provisions for exempt signage since the PUD was approved in 2005.

PROPOSED LIGHTING: Residential scale lighting is proposed at doorway entries and other locations on the upper and lower exterior levels.

MATTERS TO BE CONSIDERED WHEN AMENDING A PLANNED UNIT DEVELOPMENT

1. WHETHER THE PROPOSED AMENDMENT IS CONSISTENT WITH THE INTENT AND PURPOSE OF THE APPROVED PUD, AND WILL PROMOTE THE EFFICIENT DEVELOPMENT AND PRESERVATION OF THE ENTIRE PUD: The proposed amendment is generally consistent with the intent and purpose of approved Preliminary Development Plan. Approval of the proposed amendment will ensure the efficient development and preservation of the entire PUD.

The general intent of the PUD is to provide a broad range of retail, office, residential and municipal services to the community. The proposed group day care will provide a convenient commercial service to the immediate neighborhood for employees in the PUD, and in the larger neighborhood in the western portion of the community, as well as the community at large, due to its convenient location near a major traffic way, Kimball Avenue.

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 necessary due to the demand for child care services in the City.

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 health, safety, and general welfare by allowing the PUD to provide a needed service for parents working in the PUD or in the community at large and providing a safe location for care of infants through school age children in a modern facility. The proposed amendment will maintain to the approved PUD and the mixed-use retail and residential nature of the overall development.

The proposed amendment will not be granted as a special benefit to any one person. The proposed amendment is in response to the demand for registered and licensed day care facilities and will be a benefit to the general public.

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

1. LANDSCAPING: The proposed landscape plan provides for a number and variety of shade and ornamental trees, evergreen trees, shrubs, foundation plantings, and ground cover consisting of grass and field grass throughout the site. Landscaping and underground irrigation will be maintained by the owner.

2. SCREENING: The existing trash area is enclosed with an 8-foot tall stone and wood gate enclosure.

3. DRAINAGE: A storm drainage report was submitted, reviewed, accepted and approved by the City as a part of the original rezoning in 2005. The proposed drainage plan conformed to the requirements of the Stormwater Management Master Plan. Detention is not required within commercial parts Grand Mere Village PUD, rather the storm water is diverted to a drainage basin to the north on Tract B, which drains to Little Kitten Creek. No changes to the approved storm water plan are proposed and none are required.

4. CIRCULATION: Primary access to the site is from Kimball Avenue to the south and Vanesta Drive connecting to Vanesta Place, a travel easement and public street. Internal access is safe and convenient.

Attachment No. 2

An internal sidewalk system is throughout the site connecting to an existing sidewalk along Kimball Avenue. A public pedestrian trail system, incorporated into the sidewalk system, is on the east side of the PUD connecting with sidewalks in the PUD. New sidewalk will be constructed on Lot 12's Vanesta Place frontage.

Off-street parking is provided along the Vanesta Place frontage. The Manhattan Zoning Regulations require Group Day Care Centers to provide the following off-street parking, "At least one (1) parking space for each employee and one (1) parking space for each five (5) children." Based on the number of children and number of employees, 36 parking spaces are required and 39 are provided in Vanesta Place. The parking spaces are within Vanesta Place, a public street, and are available for the public.

While the approved Preliminary Development Plan for Lot 12 shows 42 off-street parking spaces on the north side of the building, the elimination of those spaces and use of parking on Vanesta Place results in a reduction of impervious surface and the retention of landscape space on Lot 12, which is a positive effect on the site development.

5. OPEN SPACE/LANDSCAPED AND COMMON AREA: Approximately 91 % of the site is open landscaped space (65.6%) and recreational area (25.7%).

6. CHARACTER OF THE NEIGHBORHOOD: The area is generally characterized as a mixed use neighborhood. The area to the east and south of the PUD is developed with a range of uses consisting of two-family and single-family, professional office and retirement/nursing home uses. To the north/northwest, and west is the Colbert Hills and Grand Mere development. The PUD is separated from the southern and eastern neighborhoods by Kimball Avenue and Little Kitten Creek. The neighborhood is developing in the character suggested by the Comprehensive Plan and the Grand Mere Master Plan.

MATTERS TO BE CONSIDERED WHEN REZONING

1. EXISTING USE: Lot 12 is currently a vacant tract of land shown on the Preliminary Development Plan with a 60 foot by 80 foot two-story building (4,800 square feet in area FFE 1197/1185). The lot fronts on Vanesta Place. There are 42 off-street parking spaces on the north side of the building accessed from a single curb cut on northern portion of Vanesta Place. The balance of the PUD is partially developed with commercial, office and hospice uses.

2. PHYSICAL AND ENVIRONMENTAL CHARACTERISTICS: The site is undeveloped and slopes downhill from southwest to northeast in the range from 8% to 24% and currently drains in the same direction. The site is undeveloped native prairie with approximately 18% of it with cedar trees.

Attachment No. 2

The balance of the PUD is characterized by its adjacency on its eastern boundary with Little Kitten Creek, which is designated as 100 Year Flood Plain consisting of Floodway Fringe (an area in which construction is allowed), Floodway (an area in which construction is prohibited), and 500 Year Flood Plain, which is not regulated. The southern boundary of the site adjoins Kimball Avenue, a two-lane arterial street. The western boundary is an open space entry to Grand Mere, Grand Ridge Townhomes, and Colbert Hills Golf Course. The northern boundary of the site is future Grand Mere residential development and portions of the Colbert Hills Golf Course.

The site slopes downhill from west to the east and drains to Little Kitten Creek, which is a riparian area characterized by mature trees. There are steeper slopes in the western and northern portions of the site, also having mature stands of trees. The remainder of the site is primarily native grass, except for those lots previously described as developed.

3. SURROUNDING LAND USE AND ZONING:

(a.) NORTH: Colbert Hills Golf Course and future Grand Mere residential: R-S and R Districts.

(b.) SOUTH: Kimball Avenue, residential townhomes, professional offices; Westbank Townhomes PUD and Jentre PUD.

(c.) EAST: Little Kitten Creek, Stoneybrook Retirement Community, future single, two-family, three and four-family homes in Cedar Glen subdivision; R-3, Multiple-Family Residential District, and R-M, Four Family Residential District.

(d.) WEST: Colbert Hills Golf Course and two-family residential in Grand Ridge Court; R-S and R-2 Districts.

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

5. SUITABILITY OF SITE FOR USES UNDER CURRENT ZONING: Lot 12 is suitable for development subject to approval of the amendment and approval of the Final Development Plan for Lot 12.

6. COMPATIBILITY OF PROPOSED DISTRICT WITH NEARBY PROPERTIES AND EXTENT TO WHICH IT MAY HAVE DETRIMENTAL AFFECTS: Grand Mere Village is an approved mixed use commercial shopping and office PUD, which also accommodate residential uses. Generally, increases in light, noise, and traffic are expected with new development. Those changes were considered with the rezoning of the PUD in

2005 and were determined to not be inconsistent with other newly developed neighborhoods within the area. The proposed amendment and Final Development Plan are consistent with the commercial nature of the PUD. Lot 12 is within the development and separated from neighborhoods outside the boundaries of the PUD. No detrimental effects on neighboring properties are expected.

7. CONFORMANCE WITH COMPREHENSIVE PLAN: The Comprehensive Plan shows the site as a combination of Neighborhood Commercial, Office-Research Park, Preserved Open Space, and Flood Hazard. The Grand Mere Community Master Plan adopted in April 2000 as a part of the Comprehensive Plan, is a more detailed level neighborhood plan for the site, which shows Neighborhood Retail Commercial Mixed-Use: Residential Office, Office, and Linear Park. The proposed amendment of Ordinance No. 6516 and the Final Development Plan of Lot 12 conform to the Comprehensive Plan and the Grand Mere Community Master Plan.

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

September 20, 1992	Annexation and rezoning to R-2 District (Western Hills Unit 6).
July 7, 1998	Annexation and rezoning to R-S and R Districts (Grand Mere Tract I and Colbert Hills).
October 20, 1998	Annexation and rezoning to R-2 District (Grand Mere Tract III and V).
November 7, 2005	Manhattan Urban Area Planning Board recommends approval (7-0) of the rezoning of Grand Mere Village from R-S, Single-Family Residential Suburban District; R, Single-Family Residential District; and, R-2, Two-Family Residential District, to PUD, Planned Unit Development District.
December 6, 2005	City Commission approves first reading of an ordinance rezoning Grand Mere Village PUD.
December 20, 2005	City Commission approves Ordinance No. 6516 rezoning Grand Mere Village PUD.
April 3, 2006	Manhattan Urban Area Planning Board approves the Final Plat of Lot 1-13 and the Final Development Plans for Lots 5 and 10, Grand Mere Village Addition, based on conformance with the Manhattan Urban Area Subdivision Regulations.

- April 18, 2006 City Commission accepts the easements and rights-of-way as shown on the Final Plat of Grand Mere Village Addition, based on conformance with the Manhattan Urban Area Subdivision Regulations.
- July 7, 2008 Manhattan Urban Area Planning Board approves the Final Development Plan for Homecare and Hospice on Lot 13 in Grand Mere Village Addition, based on conformance with the Manhattan Urban Area Subdivision Regulations.
- June 2, 2009 City Commission approves first reading of an ordinance renaming Vanesta Place and Market Place, located in Tact C, Grand Mere Village Addition, to Clock Tower Place; and, holds a public hearing and approves first reading of an ordinance vacating a portion of the pedestrian easement located in Tract A, Grand Mere Village Addition.
- June 16, 2009 City Commission approves Ordinance No. 6765 vacating a portion of the pedestrian easement located in Tract A, Grand Mere Village Addition; and, approves Ordinance No. 6766 renaming Vanesta Place and Market Place, located in Tact C, Grand Mere Village Addition, to Clock Tower Place.
- September 9, 2010 Manhattan Urban Area Planning Board approves the Final Development Plan for Fire House No. 5, A Municipally Owned and Operated Fire Station on Lot 6.

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

The intent and purpose of the Zoning Regulations is to protect the public health, safety, and general welfare; regulate the use of land and buildings within zoning districts to assure compatibility; and to protect property values. The PUD Regulations are intended to provide a maximum choice of living environments by allowing a variety of housing and building types; a more efficient land use than is generally achieved through conventional development; a development pattern that is in harmony with land use density, transportation facilities and community facilities; and a development plan which addresses specific needs and unique conditions of the site which may require changes in bulk regulations or layout. The proposed amendment and Final Development Plan are consistent with the intent and purposes of the Zoning Regulations, and the intent of the PUD Regulations.

Group Day Care Centers are a Conditional Use in residential zoning districts, except the manufactured home park district in which the use is permitted, and is a Conditional Use in the C-1, thru C-4 commercial districts, the I-1, I-2, and I-5 industrial districts and a Permitted Use in the CTPO, Corporate Technology Park Overlay District, on the west side of the Manhattan Regional Airport.

The Conditional Use process is a public hearing process requiring a neighborhood meeting, notice to adjoining property owners and public hearing by the Board of Zoning Appeals in order to evaluate the compatibility of the use on neighboring properties and consideration for the safety of children. The amendment process requires a neighborhood meeting, notice and public hearing by the Planning Board, consideration of amendment based on PUD standards and approval of an ordinance by the City Commission.

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 gain to the public that denial would accomplish. The proposed amendment and Final Development Plan are consistent with the mixed use nature of the PUD. It may be a hardship upon the owner and applicant if the request is denied.

11. ADEQUACY OF PUBLIC FACILITIES AND SERVICES: Adequate street, sanitary sewer, and water services are available to serve the site. Sidewalk will be constructed along the abutting Vanesta Place frontage of Lot 12, which connect to sidewalks in the neighborhood.

12. OTHER APPLICABLE FACTORS: None.

13. STAFF COMMENTS: All provisions of Ordinance No. 6516 that are not in conflict with this amendment shall remain in force. Condition 5, in Ordinance No. 6516, is modified regarding exempt signage due to updating of the sign provisions for exempt signage since 2005 when the PUD was approved.

City Administration recommends approval of the proposed amendment of Ordinance No. 6516 and the Final Development Plan of Lot 12, Grand Mere Village PUD, subject to the following conditions:

1. Group Day Care Centers shall be a Permitted Use in the Grand Mere Village PUD.
2. Signs shall be provided as proposed in the application documents, and shall allow for exempt signage described in Article VI, Section 6-104 (A)(1),(2),(4),(5),and (7); and, Section 6-104 (B)(2) and B(5), of the Manhattan Zoning Regulations.

ALTERNATIVES:

1. Recommend approval of the proposed amendment of Ordinance No. 6516 and the Final Development Plan of Lot 12, Grand Mere Village Planned Unit Development for a Group Day Care Center, stating the basis for such recommendation.
2. Recommend denial of the proposed amendment of Ordinance No. 6516 and the Final Development Plan of Lot 12, Grand Mere Village Planned Unit Development for a Group Day Care Center, 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. 6516 and the Final Development Plan of Lot 12, Grand Mere Village Planned Unit Development for a Group Day Care Center, based on the findings in the Staff Report, subject to the two conditions of approval recommended by City Administration.

PREPARED BY: Steve Zilkie, AICP, Senior Planner

DATE: December 29, 2012

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