

MINUTES
CITY COMMISSION MEETING
TUESDAY, JANUARY 18, 2005
7:00 P.M.

The Regular Meeting of the City Commission was held at 7:00 p.m. in the City Commission Room. Mayor Brad Everett and Commissioners Ed Klimek, Bruce Snead, Mark Hatesohl, and Mark Taussig were present. Also present were the City Manager Ron R. Fehr, Deputy City Manager Diane Stoddard, Assistant City Manager Jason Hilgers, City Attorney Bill Frost, City Clerk Gary S. Fees, Youth in Government Representative Brandon Malone, 5 staff, and approximately 13 interested citizens.

PLEDGE OF ALLEGIANCE

Mayor Everett led the Commission in the Pledge of Allegiance.

PROCLAMATION

Mayor Everett proclaimed January 16 – 22, 2005, *Manhattan Junior Chamber Week*. Justin Van Nest, President, and Jennifer Duncan, Business, Vice President, Manhattan Junior Chamber, were present to receive the proclamation.

COMMISSIONER COMMENTS

There were no Commissioner comments.

CONSENT AGENDA

(* denotes those items discussed)

MINUTES

The Commission approved the minutes of the Special City Commission Meeting held Tuesday, January 11, 2005.

CLAIMS REGISTER

The Commission approved Claims Register No. 2521 authorizing and approving the payment of claims from December 29, 2004, to January 1, 2005, and January 3, 2005, to January 11, 2005, in the amount of \$360,829.49 and \$1,410,047.32 respectively.

CONSENT AGENDA (CONTINUED)

FINAL PLAT – DICKENS PROFESSIONAL PLACE, PLANNED UNIT DEVELOPMENT, UNIT 3

The Commission accepted the easements and rights-of-way, as shown on the Final Plat of Dickens Professional Place, Planned Unit Development, Unit 3, generally located northwest of intersection of Dickens Avenue and Westport Drive, east of Westwood Village and west of the Church of Christ, based on conformance with the Manhattan Urban Area Subdivision Regulations.

FINAL PLAT – UNIVERSITY COMMONS, STUDENT ORIENTED-RESIDENTIAL PLANNED UNIT DEVELOPMENT, UNIT 2

The Commission accepted the easements and rights-of-way, as shown on the Final Plat of University Commons, Student Oriented-Residential Planned Unit Development, Unit 2, generally located northwest of the intersection of Kimball and College Avenues, based on conformance with the Manhattan Urban Area Subdivision Regulations.

ORDINANCE NO. 6454 – AMEND – UNIVERSITY COMMONS RESIDENTIAL PLANNED UNIT DEVELOPMENT

The Commission approved Ordinance No. 6454 amending the University Commons Residential Planned Unit Development, located at 2215 College Avenue, located northwest of the intersection of College and Kimball Avenues, and Ordinance No. 4919, based on the findings in the Staff Report, with the five conditions of approval recommended by the Planning Board. *(See Attachment No. 1)*

ORDINANCE NO. 6455 – AMEND MANHATTAN ZONING REGULATIONS – ARTICLE X, FLOOD PLAIN REGULATIONS

The Commission approved Ordinance No. 6455 amending the Manhattan Zoning Regulations as proposed, to modify Article X, Flood Plain Regulations, based on the findings in the Staff Memorandum. *(See Attachment No. 2)*

SET DATE – PUBLIC HEARING – LEVY SPECIAL ASSESSMENTS

The Commission set February 1, 2005, as the date to hold the public hearing levying special assessments against the benefiting property in the following eight (8) projects, which have been completed: *Brookfield Addition, Unit 3 – Sanitary Sewer, Street, Water; Hackberry Addition – Sanitary Sewer, Water; Stone Valley Addition, Phase I – Street; The Browning Project – Street; and Miller Ranch Addition, Unit 3, Landscape.*

CONSENT AGENDA (CONTINUED)

AGREEMENT - 2005 CITY/UNIVERSITY SPECIAL PROJECTS FUND

- * Commissioner Klimek requested that this item be moved to the end of the general agenda.

AGREEMENT – ENGINEER – EASTSIDE DRAINAGE STUDY

- * Jeff Hancock, Director of Public Works, answered questions from the Commission.

Ron Fehr, City Manager, provided clarification on the item.

The Commission authorized the Mayor and City Clerk to enter into an agreement with BG Consultants, of Manhattan, Kansas, to complete the Eastside Drainage Study.

TEMPORARY EASEMENT – 4426 WILDCAT CREEK ROAD

The Commission authorized the Mayor to sign the temporary construction easement required at 4426 Wildcat Creek Road for a bridge replacement along Wildcat Creek Road.

After discussion, Commissioner Snead moved to approve the consent agenda with the exception of Item H: Agreement – 2005 City/University Special Projects Fund, which was moved to the end of the general agenda. Commissioner Hatesohl seconded the motion. On a roll call vote, motion carried 5-0.

GENERAL AGENDA

TAX CREDIT PROJECT - GARDENS AT FLINT HILLS

Karen Davis, Director of Community Development, introduced the item.

Chris Bailey, President, Manhattan Area Housing Partnership, presented background information on the item.

Jim Moore, Developer, R&J Investment Group, LLC, Springfield, Missouri, provided additional information on the proposal. He then answered questions from the Commission.

Ron Fehr, City Manager, answered questions from the Commission.

GENERAL AGENDA (CONTINUED)

TAX CREDIT PROJECT - GARDENS AT FLINT HILLS (CONTINUED)

Jim Moore, Developer, R&J Investment Group, LLC, Springfield, Missouri, answered questions from the Commission and provided additional information on the item.

Karen Davis, Director of Community Development, and Jason Hilgers, Assistant City Manager, answered questions from the Commission.

Jai Johnson, Director, Manhattan Housing Authority, provided additional information on the item and answered questions from the Commission.

After discussion, Commissioner Snead moved to approve Resolution No. 011805-A indicating the City of Manhattan's support for a tax credit application to pursue an affordable housing development known as the Gardens at Flint Hills. Commissioner Hatesohl seconded the motion. On a roll call vote, motion carried 5-0.

PURCHASE - NEW BENEFIT DISTRICT SOFTWARE

Bernie Hayen, Director of Finance, presented the item and answered questions from the Commission.

Gary Olds, 3308 Frontier Circle, asked if the current information is available and if an access fee would be considered to offset software costs.

Bernie Hayen, Director of Finance, answered additional questions.

Ron Fehr, City Manager, provided clarification on the item.

Debra Daily, Assistant Director of Finance, and Bernie Hayen, Director of Finance, answered additional questions from the Commission.

After discussion, Commissioner Taussig moved to approve the purchase of new benefit district software from Local Government Solutions, not to exceed \$36,610.00. Commissioner Snead seconded the motion. On a roll call vote, motion carried 5-0.

ITEM REMOVED FROM CONSENT AGENDA

AGREEMENT - 2005 CITY/UNIVERSITY SPECIAL PROJECTS FUND

Diane Stoddard, Deputy City Manager, presented an overview of the item.

ITEM REMOVED FROM CONSENT AGENDA

AGREEMENT - 2005 CITY/UNIVERSITY SPECIAL PROJECTS FUND
(CONTINUED)

Bill Muir, Kansas State University, provided additional information on the item and answered questions from the Commission.

After discussion, Commissioner Hatesohl moved to authorize the Mayor and City Clerk to execute the 2005 City/University Special Projects Fund agreement with Kansas State University in the amount of \$119,500.00. Commissioner Snead seconded the motion. On a roll call vote, motion carried 5-0.

EXECUTIVE SESSION

At 8:10 p.m., Commissioner Snead moved to recess into Executive Session until 9:10 p.m. for the purpose of discussing personnel matters of non-elected personnel pertaining to the evaluation of the City Manager. Commissioner Hatesohl seconded the motion. On a roll call vote, motion carried 5-0.

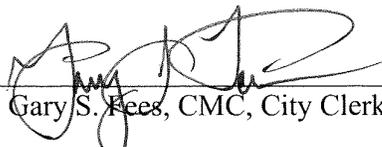
At 9:10 p.m., the Commission reconvened with Mayor Everett and Commissioners Klimek, Snead, Hatesohl, and Taussig in attendance. Commissioner Snead moved to recess into Executive Session until 9:30 p.m. for the purpose of discussing personnel matters of non-elected personnel pertaining to the evaluation of the City Manager. Commissioner Hatesohl seconded the motion. On vote, motion carried 5-0.

At 9:30 p.m., the Commission reconvened with Mayor Everett and Commissioners Klimek, Snead, Hatesohl, and Taussig in attendance.

ADJOURNMENT

Commissioner Snead moved to adjourn the meeting. Commissioner Taussig seconded the motion. On vote, motion carried 5-0.

At 9:31 p.m., the Commission adjourned.



Gary S. Fees, CMC, City Clerk

STAFF REPORT

ON AN APPLICATION TO AMEND THE APPROVED PLANNED UNIT DEVELOPMENT (PUD)

BACKGROUND

APPLICANT: Kent T. Campbell/Capstone Development Corp.
ADDRESS: 431 Office Park Drive, Birmingham, AL 35223

OWNER: University Commons – Manhattan, Ltd., an Alabama Partnership
ADDRESS: 431 Office Park Drive, Birmingham, AL 35223

LOCATION: Northwest of the intersection of College and Kimball Avenues; 2215 College Avenue, University Commons Apartments

AREA: Total PUD acres: 16.6; Capstone Fieldhouse Condominiums: 1.899-acres (82,728 square feet); University Commons Apartments: 14.783-acres (643,940 square feet)

DATE OF PUBLIC NOTICE PUBLICATION: Monday, November 29, 2004

DATE OF PUBLIC HEARING: PLANNING BOARD: Monday, December 20, 2004
CITY COMMISSION: Tuesday, January 3, 2004

DESCRIPTION OF PROPOSED AMENDMENT: The proposed amendment consists of a Final Development Plan and Final Plat (see separate memorandum), which modify the University Commons Residential Planned Unit Development, and Ordinance No. 4919, approved May 2, 1995.

Existing Conditions

The approved PUD is a multiple-family student oriented apartment complex with accessory club house and other facilities (see attached ordinance and site plan). The PUD consists of 12-apartment buildings comprised of 24-plex and 12-plex buildings units, some with 4-bedroom units and some with 2-bedroom units. Ordinance No. 4919 limits the total number of dwelling units to 252-dwelling units, and total bedroom count to 792-bedrooms. A minimum of 849 parking spaces are required. Eleven (11) of the approved apartment buildings have been constructed, comprising 228-dwelling units and 696-bedrooms. There are 791 existing parking spaces.

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Proposed Changes

The amendment eliminates an approved, but not constructed, 24-unit apartment building and replaces it with a 24-unit condominium. The approved 24-unit apartment building consisted of four-bedroom units, or a total of 96-bedrooms. Total number of units in the PUD will remain unchanged at 252. The condominium will have a total of 52-bedrooms and the amendment reduces total bedroom count from 792-bedrooms to 748-bedrooms. (Current bedroom count = $696+52=$ proposed 748.) Total parking to be provided will be reduced from 849-parking spaces to 844-spaces. Proposed building and parking placement are revised. The drainage detention basin will be reconfigured as a retention/detention pond and be a site amenity. Access to the proposed site is consistent with the approved plan. The remainder of the apartment complex is built out with apartment buildings.

Intent

The applicant indicates that “Since the construction of the University Commons apartments, Capstone Development has begun to recognize the value of residential property near or adjacent to collegiate sporting venues, and we have recently targeted several collegiate markets for our “FIELDHOUSE” concept, providing condominiums for sale to fans and supporters of college athletics. Given the close proximity of the University Commons site to Wagner Field and Bramlage Coliseum, Capstone intends to complete the build-out of the University Commons PUD by developing FIELDHOUSE – Manhattan, a 24-unit luxury residential condominium oriented to maximize views of the KSU Stadium and Campus. These units will be marketed for sale to KSU’s most ardent fans and supporters, for use as accommodations and entertaining space on game weekends, or any other time these owners may visit the campus. It is also conceivable that some units may be purchased by KSU faculty, staff and students for use as full time residences.”

Site Improvements

The proposed condominium has two dwelling unit floor plans: Type A and Type B. Type A is 1,148 square feet in area and Type B is 848 square feet in area. All units have living room, bedroom, kitchen, bathrooms, closet space and a gas fireplace. Each unit has a balcony, which fronts to the southeast towards the KSU sports complex. A common area room is proposed on the fourth floor.

Type A units: one (1), three-bedroom unit per floor, or four (4) total Type A units. Total Type A bedroom count is 12-bedrooms. Type B units: five (5), two-bedroom units per floor, or 20 total Type B units. Total Type B bedroom count is 40-bedrooms. Total bedroom count is 52- bedrooms.

The building exterior wall materials consist of limestone or manufactured stone product, stucco or EIFS treatment, cut stone or manufactured sills and heads (windows in stone base), stone or manufactured stone columns, stone or manufactured stone veneer

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chimneys, steel or aluminum railings. Roof materials are asphalt shingles and standing seam roofing. A standing seam copper metal canopy is proposed at the center entry way. Building height is approximately 56-feet.

Fifty-three (53) off-street parking spaces will be provided, or one per bedroom.

Lighting

Parking lot lights will be standard parking lot light poles. In addition, ground lighting will be installed around the building to up-light the facades. Parking lot lights must be downcast and shaded.

Signs

A backlit wall sign of approximately 6-feet in height by 3-feet 10-inches in width, will be mounted above bronze 24-inch wall mounted letters (FIELD HOUSE), with both on the retention pond retaining wall. There is an existing leasing sign on proposed condominium site, which will remain. It is partially in a utility easement and will need to be removed from the easement.

Maintenance

The University Commons apartment portion of the PUD is managed by the owner, University Commons-Manhattan, KS, Ltd. and through its agent, Capstone Properties Corp. All common areas, facilities and parking developed as FIELDHOUSE-Manhattan Condominium Association, Inc., will be maintained by the FIELDHOUSE-Manhattan Condominium Association, Inc. and managed through Capstone Properties Corp.

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

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 PUD is designed and intended for use as an apartment complex, which is oriented primarily to students. The proposed condominium retains a similar orientation, in that it is oriented towards KSU fans and supporters, a well as faculty, staff and students. The condominium is consistent with the approved residential multiple-family PUD and will promote its efficient development and preserve its intent.

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WHETHER THE PROPOSED AMENDMENT IS MADE NECESSARY BECAUSE OF CHANGED OR CHANGING CONDITIONS IN OR AROUND THE PUD, AND THE NATURE OF SUCH CONDITIONS: As noted above under the Description of Proposed Amendment, “Capstone Development has begun to recognize the value of residential property near or adjacent to collegiate sporting venues, and we have recently targeted several collegiate markets for our “FIELDHOUSE” concept, providing condominiums for sale to fans and supporters of college athletics. Given the close proximity of the University Commons site to Wagner Field and Bramlage Coliseum, Capstone intends to complete the build-out of the University Commons PUD by developing FIELDHOUSE – Manhattan, a 24-unit luxury residential condominium oriented to maximize views of the KSU Stadium and Campus.”

WHETHER THE PROPOSED AMENDMENT WILL RESULT IN A RELATIVE GAIN TO THE PUBLIC HEALTH, SAFETY, CONVENIENCE OR GENERAL WELFARE, AND IS NOT GRANTED SOLELY TO CONFER A SPECIAL BENEFIT UPON ANY PERSON: The public should benefit from the amendment. The development has not had an adverse affect on the public. No increase in storm water discharge will result and no increase in traffic should occur. Pedestrian access to public sidewalks will be provided. The proposed amendment is generally consistent with the previously approved multiple-family orientation of the apartment complex and creates opportunity for individual ownership of dwelling units in close proximity to the KSU campus and KSU sports venues.

ADDITIONAL MATTERS TO BE CONSIDERED WHEN AMENDING A PLANNED UNIT DEVELOPMENT

- 1. LANDSCAPING:** A range of deciduous, evergreen and ornamental trees, deciduous and evergreen shrubs and ornamental grasses are proposed. Existing trees are preserved where feasible. Several existing trees will be transplanted. The site will be irrigated with automatic sprinklers.
- 2. SCREENING:** The proposed dumpster locations will be screened with 6-foot wood fencing and gates. Off-street parking is approximately 28 to 29-feet from the common boundary line with the apartment complex to the south and approximately 240-feet from residential property to the west. Screening is required for parking areas located within 25-feet of property in a residential district. Due to distance, the proposed parking is not required to be screened; however, a dense tree line of large evergreens is located on the property to the south, some of which may be on the condominium site. Property to the west is separated by significant distance.

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3. DRAINAGE: The drainage basin to the southeast of the proposed condominium will be re-designed as a retention/detention pond, which will be privately maintained. Stormwater discharge will remain the same after re-grading, as is currently approved for the existing dry basin. A Drainage Report (attached) was submitted and reviewed and accepted by the City Engineer (attached).

4. CIRCULATION: The amendment does not alter of curb cuts onto College Avenue. Internal drives and aisles have minor changes, but retain the general character of the approved PUD. The site has been previously analyzed (with the 1995 PUD rezoning) for traffic impacts as an apartment complex and no adverse affects were determined and no traffic impact study was required with the amendment.

Sidewalk will be provided to connect to existing sidewalk along the west side of College Avenue, as well as within Lot 2.

The total parking requirement is reduced from 849-parking spaces to 844-spaces. In addition, bedroom count is reduced from 792 to 748. The reduction of five (5) spaces is a minimal adjustment to the total number that was approved in 1995.

5. OPEN SPACE AND COMMON AREA: Approximately 46% of the combined sites are landscaped green space. An expansive patio/gathering area is proposed on the southeast side of the condominium, which will adjoin the re-designed retention/detention pond. Existing amenities in the apartment part of the site do not change.

6. CHARACTER OF THE NEIGHBORHOOD: A developed single-family and multiple-family residential neighborhood, located northwest of a complex of KSU athletic stadiums and parking areas, medical offices and Mercy Health Center. KSU agricultural fields and facilities are another characteristic of the neighborhood.

EXISTING USE: University Commons Apartment complex.

PHYSICAL AND ENVIRONMENTAL CHARACTERISTICS: A student oriented apartment complex consisting of 24-unit and twelve-unit apartment buildings, off-street parking, landscaped common area, clubhouse, pool, and other amenities. The site drains to the northwest.

SURROUNDING LAND USE AND ZONING:

(1) NORTH: Four-family and single-family dwellings; Residential PUD, and R-1, Single-Family Dwellings.

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(3) SOUTH: Apartment buildings, Kimball Avenue, Mercy Health Center, KSU football and basketball stadiums and parking lots; Residential PUD, R-1 District, and U, University District

(3) EAST: College Avenue, KSU farm fields and facilities; U District

(4) WEST: Church and single-family homes; R, Single-Family Residential District

GENERAL NEIGHBORHOOD CHARACTER: Same as above under No. 6

SUITABILITY OF SITE FOR USES UNDER CURRENT ZONING: The site is zoned for multiple-family use and a 24-unit apartment building could be built as previously approved. The proposed condominium is a change in terms of use, architecture and site modifications to the off-street parking, landscaping, and drainage improvements. In combination, an amendment of the approved PUD is needed to construct the proposed condominium and improvements.

COMPATIBILITY OF PROPOSED DISTRICT WITH NEARBY PROPERTIES AND EXTENT TO WHICH IT MAY HAVE DETRIMENTAL AFFECTS: The proposed condominium adjoins an established apartment complex to the south (Woodway Apartments), and is within the University Commons Apartment complex. The proposed condominium is separated from single-family and other uses by distance and existing apartment buildings. No adverse affect is expected as a result of the change. No changes to access are proposed.

CONFORMANCE WITH COMPREHENSIVE PLAN: The site is shown on the Northwest Planning Area Future Land Use map as RHD, residential high density. The apartment complex and proposed condominium are land uses consistent with the RHD category. The amendment conforms to the Comprehensive Plan.

ZONING HISTORY AND LENGTH OF TIME VACANT AS ZONED: The PUD was established in 1995. Twelve (12) and 24-unit apartment buildings were built beginning in 1996, except for the site on which the condominium will be built. A 24-unit apartment building is approved for the condominium site, but has not been constructed.

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

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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 is consistent with the intent and purpose of Ordinance No. 4919, the Zoning Regulations, and the intent of the PUD Regulations.

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 change is consistent with the multiple-family character of the apartment complex and the surrounding neighborhood. It may be a privation to the applicant if the request is denied.

ADEQUACY OF PUBLIC FACILITIES AND SERVICES: Adequate street, sanitary sewer, and water are available to serve the use. Sidewalk exists along the west side of College Avenue, which connects to the north to sidewalk on Kimball Avenue.

OTHER APPLICABLE FACTORS: None.

STAFF COMMENTS: City Administration recommends approval of the proposed amendment of the University Commons Residential Planned Unit Development, Ordinance No. 4919, and the proposed Final Development Plan, with the following conditions:

1. Landscaping and irrigation shall be provided pursuant to a Landscaping Performance Agreement between the City and the owner, which shall be entered into prior to issuance of a building permit.
2. All landscaping and irrigation shall be maintained in good condition.
3. Signs shall be provided as proposed in the application documents. In addition, exempt signage shall be allowed as described in Article VI, Section 6-104 (A)(1), (2), (4), (5), (7) and (8); and, Section 6-104 (B)(2) of the Manhattan Zoning Regulations.
4. Permitted uses shall include residential condominiums in addition to those permitted uses listed in Ordinance No. 4919.
5. The minimum number of off-street parking spaces noted in Condition No. 5, in Ordinance No. 4919, shall be reduced from 849 to 844.

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ALTERNATIVES:

1. Recommend approval of the proposed amendment of the University Commons Residential Planned Unit Development, Ordinance No. 4919, and the proposed Final Development Plan, stating the basis for such recommendation.
2. Recommend denial of the proposed amendment of the University Commons Residential Planned Unit Development, Ordinance No. 4919, and the proposed Final Development Plan, stating the specific reasons for denial.
3. Table the proposed Amendment(s) to a specific date, for specifically stated reasons.

POSSIBLE MOTION:

The Manhattan Urban Area Planning Board recommends approval of the amendment of the University Commons Residential Planned Unit Development, Ordinance No. 4919, and the proposed Final Development Plan, based on the findings in the Staff Report, with the conditions recommended by City Administration.

PREPARED BY: Steve Zilkie, AICP, Senior Planner

DATE: December 20, 2005

04026

Attachment No. 2

INTER-OFFICE MEMORANDUM



DATE: December 13, 2004

TO: Manhattan Urban Area Planning Board

FROM: Steve Zilkie, AICP, Senior Planner

RE: Amend Article X, Flood Plain Regulations, of the Manhattan Zoning Regulations

BACKGROUND

General Background

In 1981, the City of Manhattan began participating in the National Flood Insurance Program (NFIP). In 1984, the Federal Emergency Management Agency (FEMA) prepared revised Flood Insurance Rate Maps (FIRM), and a Flood Insurance Study (FIS). The City adopted Flood Plain Regulations consistent with the requirements of FEMA. The Flood Plain Regulations have been amended from time to time since 1984. A Restudy of Manhattan and Riley County's flood plains was completed in 2003, and a new FIRM and FIS were effective November 19, 2003.

By participating in the NFIP and adopting Flood Plain Regulations, the community is eligible for flood insurance and disaster assistance. FEMA requires that communities that participate in the NFIP adopt Flood Plain Regulations that meet minimum federal requirements. The Regulations ensure that construction conforms to minimum design standards to protect life and property. The effective date of the FIRM and FIS are adopted and noted in the Flood Plain Regulations. When the FIRM and FIS date changes, the Flood Plain Regulations must be amended.

FEMA notified the City in July 2004 of revisions that were made to the effective FIRM, and advised the City to review the maps and correct non-technical information, such as roads. Minor changes included adding street names that were missing from the maps. The new FIRM will be effective February 4, 2005.

The new FIRM and FIS were revised by FEMA due to approved Letters of Map Revision (LOMR) and Letters of Map Amendments (LOMA) incorporated since November 19, 2003, which will be shown on the new maps; other LOMRs and LOMAs for areas of too small a scale to include on the new maps; and, areas with previously approved LOMRs and LOMAs that have been superseded by new flood analyses.

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The text amendment will also ensure the City's continued participation in the NFIP by revising the effective date of the FIRM and FIS. As required by the NFIP, the Kansas Board of Agriculture, Division of Water Resources (DWR) reviews and approves the Flood Plain Regulations to ensure compliance with state standards and NFIP requirements. DWR has been forwarded the proposed minor changes. As of the date of this memorandum, DWR has not approved the changes.

FIRM and FIS

FIRM maps show the location of the 100 Year Flood Plain, which are areas that have a 1% chance of flooding in any given year; the 500 Year Flood Plain, which are areas having a .2% chance of flooding in any year; and, all areas outside of both Flood Plains. For insurance rating purposes, 100 Year Flood Plains are designated as AE and AH zones in the City and are shown as such on the maps. One hundred (100) Year flood elevations, referred to as base flood elevations, are also shown on the maps. The base flood elevation is the flood elevation that lowest floors must be protected to by either elevating the structure on fill or flood-proofing the structure. In Kansas, an additional one-foot of elevation is required.

The FIS is a written document that sets out such information as the purposes of the study, the areas covered, engineering methods, flood plain boundaries, cross sections and profiles of streams and other information. The FIS supports the FIRM.

The effective FIRM and FIS consist of a combined set of maps and a single study for the City and Riley County. The FIRM is titled Flood Insurance Rate Maps, Riley County, Kansas and Incorporated Areas, and the FIS is similarly titled. Map panels distinguish between the corporate limits of the City and the unincorporated areas for ease of use and identification of jurisdictional responsibilities.

Proposed Changes to Article X, Flood Plain Regulations

The text (attached) is modified to delete and add new dates to Sections 10-101 (A) and 10-102 (A)(1). No other changes are proposed.

AMENDMENTS TO THE TEXT OF THE ZONING REGULATIONS

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

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

The intent 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.

More specifically, the purposes of the Flood Plain Regulations are to promote the public health, safety and general welfare and to minimize flood losses resulting from periodic inundation of the base flood by applying provisions designed to:

- (1) Restrict or prohibit uses which are dangerous to health, safety or property in times of flood or cause undue increases in flood heights or velocities.
- (2) Require that uses vulnerable to floods, including public facilities, which serve such uses, be provided with flood protection at the time of initial construction.
- (3) Protect individuals from buying lands, which are unsuited for intended purposes because of flood hazard.
- (4) Minimize the need for rescue and relief efforts associated with flooding, generally undertaken at the expense of the general public.
- (5) Assure that eligibility is maintained for property owners in the community to purchase flood insurance in the National Flood Insurance Program.

In order to regulate development in the 100 Year Flood Plain, the amendment must reference the new effective FIRM and FIS dates. The proposed amendment is consistent with these purposes and meets the requirements of the NFIP and Kansas statutes. The proposed amendment is necessary because of the changes FEMA made to the maps.

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

The Flood Plain Regulations apply to those areas designated as 100 Year Flood Plains, which are located throughout the City shown on the FIRM maps. New construction and other development in the 100 Year Flood Plain must conform to the requirements set out in Article X in order to protect life and property, as well as ensure the City's continued participation in the NFIP.

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

FEMA initiated a Restudy in 1988, which was completed and effective November 19, 2003. FEMA indicated that by November 19, 2003, the City had to adopt legally enforceable flood plain management regulations, which met the requirements of FEMA and Kansas. Those changes were made and effective November 19, 2003. Since then, FEMA made changes to the maps and has established a new effective date of February 4, 2005, which must be incorporated in the Flood Plain Regulations.

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

Chapter 4: Land Use and Growth Management, in The Manhattan Urban Area Comprehensive Plan, categorizes the Floodway as a Flood Hazard Area, which consists of FEMA designated Floodway and areas inundated by the 1993 flood event where development would be prohibited. The Floodway is within the 100 Year Flood Plain. The Floodway Fringe, or developable part of the 100 Year Flood Plain, is generally identified as an Environmentally Sensitive Area. These areas are typically along streams and rivers. The 1993 flood event was due to man-made release rates from Tuttle Creek Reservoir and are known to occur under certain circumstances and affected areas may not be in a 100 Year Flood Plain.

Goal #1 in Chapter 5: Natural Resources and Environment is, "Preserve environmentally sensitive areas from development". The Guiding Principle is, "Identify and conserve environmentally sensitive areas, including wetlands, key wildlife habitats, steep slopes, and riparian areas". Policy NRE 6: Natural Hazards states that, "Development shall be prohibited in areas where natural hazards have been identified which have the potential to endanger life, resources, and property. Within the Manhattan Urban Area, these hazards include steep slopes (20% or greater slope), floodways, and other special flood hazard areas."

In the Floodway, development is limited to low impact non-structural activities such as open parks and recreation areas, parking areas, trails, and some structures such as railroads, bridges, utility transmission lines and pipelines. By restricting development in the Floodway, the proposed amendment will, in general, preserve the riparian character of those locations designated as Floodway.

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The Floodway Fringe can be developed subject to the Flood Plain Regulations. The Flood Plain Regulations represent a balance between preserving the natural riparian areas along streams and rivers by limiting and restricting development in the Floodway, while allowing development in the Floodway Fringe.

The proposed amendment of Article X, Flood Plain Regulations, conforms to the Comprehensive Plan.

ALTERNATIVES

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

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

RECOMMENDATION

City Administration recommends approval of the amendment to Article X, Flood Plain Regulations, of the Manhattan Zoning Regulations, subject to any changes required by Federal Emergency Management Agency or the Kansas Board of Agriculture, Division of Water Resources.

POSSIBLE MOTION

The Manhattan Urban Area Planning Board recommends approval of the amendment to Article X, Flood Plain Regulations, of the Manhattan Zoning Regulations, based on the findings in the Staff Memorandum, subject to any changes required by Federal Emergency Management Agency or the Kansas Board of Agriculture, Division of Water Resources.

