

MINUTES
CITY COMMISSION MEETING
TUESDAY, JUNE 5, 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 Loren J. Pepperd and Commissioners John Matta, Wynn Butler, Richard B. Jankovich, and James E. Sherow were present. Also present were the City Manager Ron R. Fehr, Assistant City Manager Jason Hilgers, City Attorney Katharine Jackson, City Clerk Gary S. Fees, 8 staff, and approximately 75 interested citizens.

PLEDGE OF ALLEGIANCE

Mayor Pepperd led the Commission in the Pledge of Allegiance.

PRESENTATION

Mayor Pepperd and City Manager Fehr recognized members of the City's Finance Department for receiving the Government Finance Officers Association Distinguished Budget Presentation Award for the fiscal year beginning January 1, 2012.

PROCLAMATION

Mayor Pepperd proclaimed June 16, 2012, *Juneteenth*. Monique King, Event Coordinator, and a committee representative with the Juneteenth Committee were present to receive the proclamation.

PUBLIC COMMENTS

Mayor Pepperd opened the public comments.

Michael Duvall informed the Commission that he moved back to Manhattan seven months ago and provided his past experience of harassment when living in Manhattan earlier. He urged the Commission to reinstitute the previously passed non discrimination ordinance that was repealed by this City Commission to ensure equality, fairness, and marketability for all.

PUBLIC COMMENTS (CONTINUED)

Marolyn Caldwell, 325 Fordham Road, informed the Commission that because of the repeal of the human rights ordinance that her gay son is no longer willing to live in Manhattan. She stated that she will be placing her house on the market today and will be moving.

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

COMMISSIONER COMMENTS

Commissioner Jankovich congratulated Scott Shoemaker, Sunset Zoo Director, and his staff for the dedication and grand opening event held on Sunday, June 3, 2012, for the new Nature Exploration Center. He also informed the community that his wife Caroline and he are co-chairs for the Riley County United Way Dinner by Design event to be held Sunday, June 17, 2012. He encouraged those interested to contact the Riley County United Way Office or to visit their website for additional ticket information. He informed citizens that he appreciates the emails and feedback received. He then welcomed Katie Jackson as the new City Attorney for the City of Manhattan.

Mayor Pepperd also thanked the staff at Sunset Zoo and the Friends of Sunset Zoo for an outstanding dedication of the new Nature Exploration Center and the Wine in the Wild event held over the past weekend.

Ron Fehr, City Manager, and Curt Loupe, Director of Parks and Recreation, provided additional information on upcoming promotional events at Sunset Zoo.

Mayor Pepperd informed the community that he attended the National Bio and Agro-Defense Facility (NBAF) steering committee meeting in Topeka on May 29, 2012, being chaired by Senator Pat Roberts, with updates on the facility given by Tim Barr and President Kirk Schulz, Kansas State University.

CONSENT AGENDA

(* denotes those items discussed)

MINUTES

The Commission approved the minutes of the Regular City Commission Meeting held Tuesday, May 15, 2012.

CONSENT AGENDA (CONTINUED)

CLAIMS REGISTER NO. 2703

The Commission approved Claims Register No. 2703 authorizing and approving the payment of claims from May 09, 2012, to May 29, 2012, in the amount of \$3,251,857.97.

LICENSES

The Commission approved a Tree Maintenance License for calendar year 2012 for Weber Tree Service LLC, 107 West 8th Street, Florence, Kansas, and an annual Cereal Malt Beverage Off-Premises License for Little Apple Express, 809 North 3rd Street.

ORDINANCE NO. 6950 – VACATE PORTION OF RIGHT-OF-WAY – 530 BERTRAND STREET

The Commission approved Ordinance No. 6950 vacating a portion of 6th Street right-of-way adjacent to 530 Bertrand Street, Manhattan, Kansas 66502.

FIRST READING – NO PARKING – SHUSS ROAD (SOUTHWIND PLACE TO JOHNSON VALLEY DRIVE)

The Commission approved first readings of ordinances designating a “No Parking Zone” along both sides of Shuss Road from Southwind Place to Johnson Valley Drive and establishing a 25 mph speed limit along Shuss Road from Southwind Place to Johnson Valley Drive.

* **FIRST READING – NO PARKING – 2000 BLOCK COLLEGE HEIGHTS ROAD**

Gene Theleman, 2242 S. 260th Avenue, Natoma, owner of 2007 College Heights Road, voiced concern with the proposed “No Parking Zone” designation and asked the Commission to consider better ways to solve the concerns than taking away parking along College Heights Road. He then responded to questions from the Commission.

Jason Hilgers, Assistant City Manager, provided clarification on the item.

Rob Ott, City Engineer, presented additional background information on the item and informed the Commission that the Public Works Department was responding to a complaint-based issue that would address a safety concern.

Mayor Pepperd requested that the item be tabled.

CONSENT AGENDA (CONTINUED)

FIRST READING – NO PARKING 3 A.M. TO 6 A.M. – 1100 BLOCK LARAMIE STREET AND N. 12TH STREET

The Commission approved first reading of an ordinance designating a “No Parking 3 a.m. to 6 a.m.” zone along the north and south side of the 1100 block of Laramie Street and the east side of 12th Street from its intersection with Laramie Street thence south 180 feet to the alley between Laramie Street and Fremont Street.

* **RESOLUTION NO. 060512-A – PETITION – LOT 4, UNIT THREE, DOWNTOWN ENTERTAINMENT DISTRICT (CANDLEWOOD INN AND SUITES) - SANITARY SEWER IMPROVEMENTS (SS1205)**

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

The Commission found the petition sufficient and approved Resolution No. 060512-A finding the project advisable and authorizing construction for sanitary sewer improvements (SS1205) for Lot 4, Unit Three, Downtown Entertainment District, in conjunction with the Candlewood Inn and Suites.

* **RESOLUTION NO. 060512-B – PETITION – LOT 4, UNIT THREE, DOWNTOWN ENTERTAINMENT DISTRICT (CANDLEWOOD INN AND SUITES) - WATER IMPROVEMENTS (WA1206)**

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

The Commission found the petition sufficient and approved Resolution No. 060512-B finding the project advisable and authorizing construction for water improvements (WA1206) for Lot 4, Unit Three, Downtown Entertainment District, in conjunction with the Candlewood Inn and Suites.

* **RESOLUTION NO. 060512-C – PETITION – LOT 4, UNIT THREE, DOWNTOWN ENTERTAINMENT DISTRICT (CANDLEWOOD INN AND SUITES) – STREET IMPROVEMENTS (ST1208)**

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

The Commission found the petition sufficient and approved Resolution No. 060512-C, finding the project advisable and authorizing construction for street and parking improvements (ST1208) for Lot 4, Unit Three, Downtown Entertainment District, in conjunction with the Candlewood Inn and Suites.

CONSENT AGENDA (CONTINUED)

RESOLUTION NO. 060512-D – SALE OF LAND – FARRAR CORPORATION

The Commission approved Resolution No. 060512-D authorizing the sale and conveyance of certain unimproved land to Farrar Corporation, pursuant to the Lease Agreement for Industrial Revenue Bonds.

CONTRACT AMENDMENT NO. 1 – CICO PARK DRAINAGE STUDY (SM1001)

The Commission authorized the Mayor and City Clerk to execute Contract Amendment No. 1 in the amount of \$18,890.00 with Olsson Associates, of Manhattan, Kansas, for the CiCo Park Drainage Study (SM1001).

AWARD CONTRACT – WASTEWATER TREATMENT PLANT WASHER COMPACTOR (SS1110)

The Commission accepted the Engineer's Opinion of Probable Cost in the amount of \$289,112.00 and authorized the Mayor and City Clerk to execute a contract in the amount of \$246,200.00 with Walters-Morgan Construction, Inc., of Manhattan, Kansas, for the Wastewater Treatment Plant Washer Compactor project (SS1110).

AWARD CONTRACT – WILDCAT CREEK WASHER COMPACTOR (SS1111)

The Commission accepted the Engineer's Opinion of Probable Cost in the amount of \$131,842.00 and authorized the Mayor and City Clerk to execute a contract in the amount of \$131,100.00 to Walters-Morgan Construction, Inc., of Manhattan, Kansas, for the Wildcat Creek Washer Compactor project (SS1111).

AGREEMENT - LEGAL SERVICES

The Commission approved the legal services contract with Morrison, Frost, Olsen, Irvine and Shartz, LLP, of Manhattan, Kansas, for the term of June 1, 2012, to January 1, 2013.

OUTSIDE CITY SEWER AGREEMENT – 5020 MURRAY ROAD (LONNIE L. PAQUETTE AND JEAN C. PAQUETTE)

The Commission authorized the Mayor and City Clerk to execute an agreement with Lonnie L. Paquette and Jean C. Paquette, husband and wife, and trustees of the Lonnie L. Paquette and Jean C. Paquette Revocable Family Trust, dated May 25, 2010, for an outside of city limits sewer service connection for the real estate located at 5020 Murray Road, Riley County, Kansas.

* BOARD APPOINTMENTS

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

CONSENT AGENDA (CONTINUED)

* BOARD APPOINTMENTS (CONTINUED)

Airport Advisory Board

Re-appointment of Jeff Hancock, 6353 Harbour Haven Drive, to a three-year At-Large term. Mr. Hancock's term will begin June 27, 2012, and will expire June 26, 2015.

Re-appointment of Richard B. Hayter, 1920 Grandview Drive, to a three-year Chamber of Commerce term. Mr. Hayter's term will begin June 27, 2012, and will expire June 26, 2015.

Appointment of Robert Boyd, 6601 Mill Cove Drive, to a three-year At-Large term. Mr. Boyd's term will begin June 27, 2012, and will expire June 26, 2015.

Code Appeals Board

Re-appointment of Todd Olson, 629 Pecan Circle, to a three-year Electrician term. Mr. Olson's term begins immediately, and will expire May 31, 2015.

Re-appointment of Tony Reid, 8964 Green Valley Drive, to a three-year Master Plumber term. Mr. Reid's term begins immediately, and will expire May 31, 2015.

Housing Appeals Board

Re-appointment of Tim Trubey, 2920 Hickory Court, to a three-year term. Mr. Trubey's term will begin July 1, 2012, and will expire June 30, 2015.

Appointment of Allyn Weddle, 2009 Danbury Court, to a three-year term. Mr. Weddle's term will begin July 1, 2012, and will expire June 30, 2015.

Library Board

Re-appointment of Janet Duncan, 1270 Bluemont Drive, to a four-year term. Ms. Duncan's term begins immediately and will expire April 30, 2016.

Re-appointment of Brice Hobrock, 4009 Snowy Reach, to a four-year term. Mr. Hobrock's term begins immediately and will expire April 30, 2016.

Appointment of Kent Stewart, 2062 College Heights Road, to fill the unexpired term of Todd Simon. Mr. Stewart's term begins immediately and will expire April 30, 2013.

CONSENT AGENDA (CONTINUED)

BOARD APPOINTMENTS (CONTINUED)

Manhattan Urban Area Planning Board

Appointment of John Ball, 3107 Harahey Ridge, to a three-year term. Mr. Ball's term begins immediately and will expire April 30, 2015.

Parks and Recreation Advisory Board

Re-appointment of Oscar Montenegro, 1403 College Avenue, to a four-year term. Mr. Montenegro's term will begin July 1, 2012, and will expire June 30, 2016.

Appointment of Dave Schafer, 2104 Fox Meadows, to fill the unexpired term of Stacy Mackey. Mr. Schafer's term begins immediately and will expire June 30, 2013.

After discussion, Commissioner Sherow moved to approve the consent agenda, as read, and to table Item F, FIRST READING – NO PARKING – 2000 BLOCK COLLEGE HEIGHTS ROAD. Commissioner Butler seconded the motion. On a roll call vote, motion carried 5-0, with the exception of Item K, AWARD CONTRACT – WASTEWATER TREATMENT PLANT WASHER COMPACTOR (SS1110), and Item L, AWARD CONTRACT – WILDCAT CREEK WASHER COMPACTOR (SS1111), which carried 4-0-1, with Commissioner Jankovich abstaining on the items due to a conflict of interest.

GENERAL AGENDA

FIRST READING – AMEND FINAL DEVELOPMENT PLAN - LOT 4, DOWNTOWN ENTERTAINMENT DISTRICT COMMERCIAL PLANNED UNIT DEVELOPMENT DISTRICT

Eric Cattell, Assistant Director for Planning, presented the item. He then responded to questions from the Commission regarding design features of the building and availability of parking. He stated that the City was planning to do a parking analysis for the downtown area.

Ron Fehr, City Manager, provided additional information regarding parking in the downtown area. He informed the Commission that further analysis and planning will need to be conducted to meet future parking needs and to evaluate potential parking policies.

GENERAL AGENDA (CONTINUED)

FIRST READING – AMEND FINAL DEVELOPMENT PLAN - LOT 4, DOWNTOWN ENTERTAINMENT DISTRICT COMMERCIAL PLANNED UNIT DEVELOPMENT DISTRICT (CONTINUED)

Rick Huffman, HCW Manhattan, LLC, Developer, provided additional information on the item and the future building activity and jobs in the development area. He informed the Commission that the new parking garage was designed to accommodate a parking fee set-up. He then responded to questions from the Commission.

After discussion and comments from the Commission, Commissioner Sherow moved to approve first reading of an ordinance amending Ordinance No. 6804 and the Final Development Plan of Lot 4, Downtown Entertainment District Commercial Planned Unit Development District, based on the findings in the Staff Report (*See Attachment No. 1*), with the one condition recommended by the Manhattan Urban Area Planning Board. Commissioner Jankovich seconded the motion. On a roll call vote, motion carried 5-0.

PETITION AND ORDINANCE - SOCIAL SERVICES FUNDING

Mayor Pepperd provided an overview on the process for the item.

Katharine Jackson, City Attorney, presented background information on the item. She provided an overview of the four factors considered in what constitutes an administrative ordinance and the alternative options available to the City Commission. She then informed the Commission that it is the Legal Department's opinion that the proposed ordinance is an administrative ordinance that cannot be adopted using the initiative and referendum process.

Geri Simon, Co-Chair, Save Our Social Services Organizing Committee, 1728 Little Kitten Avenue, provided background information on why the petition happened and presented key elements of the proposed ordinance in order to keep funding for social services. She also provided an overview of historical funding levels and the 2012 funding provided through the recommendation of the Social Services Advisory Board.

Debbie Nuss, Co-Chair, Save Our Social Services Organizing Committee, 1419 Humboldt Street, informed the Commission that the Committee went through a process to bring the petition to the Commission as outlined under K.S.A. 12-3013. She provided additional information on the signatures collected and stated that the ruling could just as easily been interpreted to support the view that the ordinance is legislative and not administrative. She also provided additional information on the Kansas Supreme Court ruling regarding the merits of legislative versus administrative ruling. She requested that the Commission make a moral and political decision in response to what members of the community that signed the petition are asking you to do and to either enact the proposed ordinance or put the question to a vote for the public to decide. She then responded to questions from the Commission.

GENERAL AGENDA (CONTINUED)

PETITION AND ORDINANCE - SOCIAL SERVICES FUNDING (CONTINUED)

Jean Lee, 901 Ivy Circle, representing the Riley County League of Women Voters, urged the Commission to take positive action on the item and to allow citizens to adopt the ordinance through the initiative and referendum process. She stated that the League supports programs to prevent poverty and to help citizens of all ages succeed and contribute to the community. She said the strong number of those signing the petition should not be ignored and requested that the Commission either approve the ordinance or submit the question to a public vote.

Stan Hoerman, 2021 Bluehills Road, informed the Commission that 75 percent of the voters in Manhattan did not sign the petition. He talked about the closure of Manhattan Day Care and stated that Manhattan has a wonderful history of volunteers and individuals in the private sector that can care for many of the needs in the community.

Thomas Sisneros 2430 Greenbriar Drive, Apartment C, stated that he is an employee of Big Lakes Development Center and that they receive funding from the City's social services budget. He stated there is a waiting list for people needing services and asked the Commission to not cut the social services budget for budgeting purposes.

Commissioner Butler provided clarification that the Big Lakes Development Center is not funded by the Social Services Advisory Board budget.

Kristi Mendenhall, 730 Allen Road, No. 65, informed the Commission that the population in Manhattan is growing exponentially, the poverty rate is increasing, and that the two percent (2%) being requested is not unreasonable to support social services. She stated that the Breadbasket only addresses hunger and does not address other needs in the community that other agencies provide. She then responded to questions from the Commission regarding population and poverty rates.

Marolyn Caldwell, 325 Fordham Road, asked the Commission if they would be willing to take in homeless people and stated that she has personally helped others. She stated that social services are not funded well enough or trained well enough. She asked the Commission to look into their hearts and to help people sometimes.

Linda Morse, 2118 Spain Drive, stated that we need to think about the resources that are available and how any one of us may need help. She asked to be mindful on how we take individual action to speak to a larger and moral issue beyond ourselves.

Karen Hummel, 2107 Londondery Drive, stated that when we said, "The Pledge of Allegiance with liberty and justice for all," except for some of us.

GENERAL AGENDA (CONTINUED)

PETITION AND ORDINANCE - SOCIAL SERVICES FUNDING (CONTINUED)

Judy Mecseri, 1015 Leavenworth Street, stated that there are currently 10 agencies funded by the Social Services Advisory Board; however, the Board can make other recommendations and other agencies can come forward too. They can come forward so 2% could also extend social services to expand for community.

Jack Hoagland, 1609 Denholm Drive, informed the Commission that two percent (2%) of the annual budget is not exhorbant at all and to accept that social services are backstopped by many volunteers. He stated that these funds are leveraged and you're receiving a tremendous return on your funds, as seen in his work as a Court Appointed Special Advocates (CASA) volunteer.

Jeff Gauthier, 2800 Brookpark Drive, asked the Commission how arrived at 50% increase in the City budget and stated that funding social services sounded like a good bargain.

Tom Kerrigan, 1000 Pierre Street, informed the Commission that when the public speaks you need to listen and not have a retort to what is being said.

Chuck Henderson, 2008 Somerset Square, asked what the number of signatures received on the petition were.

Debbie Nuss, Co-Chair, Save Our Social Services Organizing Committee, provided clarification on the certified valid numbers for the petition.

Chuck Henderson, 2008 Somerset Square, provided additional information on the number of votes received by the City Commission in the last election and stated that good work is being done by the agencies; however, asked if these services can be performed without resorting to taxation of citizens.

Tracey Weston, 1415 Sunnyslope Lane, stated that a certain segment of people voted for the Commission and that the Commission represents the citizens of Manhattan. She said that a majority of Manhattanites would like to see this happen.

After discussion and comments from the Commission, Commissioner Sherow moved to approve Resolution No. 060512-E submitting a question to establish the Social Services Advisory Board and to require that two percent of the General Fund be spent on social services. Commissioner Jankovich seconded the motion. After additional discussion and comments from the Commission, on a roll call vote, motion failed 4-1, with Mayor Pepperd and Commissioners Matta, Butler, and Jankovich voting against the motion.

GENERAL AGENDA (CONTINUED)

PETITION AND ORDINANCE - SOCIAL SERVICES FUNDING (CONTINUED)

Commissioner Butler moved to accept the Legal Department's opinion that the proposed ordinance relating to social services is excluded from the initiative and referendum process, pursuant to K.S.A. 12-3013, and to take no action on the petition and ordinance. Commissioner Matta seconded the motion. On a roll call vote, motion carried 4-1, with Commissioner Sherow voting against the motion.

At 9:07 p.m., the Commission took a brief recess.

EXECUTIVE SESSION

At 9:15 p.m., Commissioner Jankovich moved to recess into Executive Session until 9:40 p.m. for the purpose of discussing matters, that presently need to remain confidential, and are related to employer-employee negotiations between City Administration and Local 2275, International Association of Fire Fighters, the Union representing certain members of the Manhattan Fire Department. Commissioner Butler seconded the motion. On vote, motion 5-0.

At 9:40 p.m., the Commission reconvened with Mayor Pepperd and Commissioners Matta, Butler, Jankovich, and Sherow in attendance.

ADJOURNMENT

At 9:40 p.m., the Commission adjourned.



Gary S. Fees, MMC, City Clerk

STAFF REPORT

AMENDMENT OF A COMMERCIAL PLANNED UNIT DEVELOPMENT

APPLICANT/OWNER: The applicant/owner is HCW-Manhattan, LLC – Rick Huffman.

ADDRESS: The applicant/owner's address is 153 S. Payne Stewart Drive, Branson, MO, 66516.

REQUEST: The applicant/owner has requested an amendment of Ordinance No. 6804 and the approved Final Development Plan of Lot 4, Downtown Entertainment District Commercial Planned Unit Development District. The proposed amendment consists of modifications to the existing Hilton Garden Inn's off-street parking lot including reduction of the number of off-street parking spaces and landscape plan in order to accommodate a proposed four-story mixed use building. The first floor of the mixed use building will be commercial use. Floors two, three and four are for twenty four residential dwelling units. The amendment is in the form of a Final Development Plan.

LOCATION: Lot 4 is generally on the southeast corner of S. 4th Street and Colorado Street. The location of the proposed mixed use building is an open green space located at the southeast corner of S. 4th Street and Colorado Street.

AREA: All of Lot 4 is 3.3 acres/144,640.56 square feet. The proposed amendment site within Lot 4 is approximately 240 feet by 160 feet, 0.9 acres/38,400 square feet.

DATE OF NEIGHBORHOOD MEETING: November 29, 2011.

DATE OF PUBLIC NOTICE PUBLICATION: Monday, April 16, 2012.

DATE OF PUBLIC HEARING: PLANNING BOARD: Monday, May 7, 2012.

CITY COMMISSION: Tuesday, June 5, 2012.

EXISTING PUD AND APPROVED LOT 4:

Ordinance

Lot 4 is in the Downtown Entertainment District Commercial Planned Unit Development and subject to Ordinance No. 6804, dated December 15, 2009 (*attached*). Prior to completion of the off-street parking lot, the owner requested a delay of construction of a portion of the parking lot for the Hilton Garden Inn hotel in anticipation of an amendment (*Agreement attached*.)

Attachment No. 1

The Agreement was entered into between the owner and the City on August 2, 2011, setting the amendment site apart from the Lot 4 delaying the construction of off-street parking in the amendment site subject to submittal of an amendment by the owner and approval by the City. If an amendment is not approved by September 30, 2013, the owner must construct the parking consistent with the approved PUD of Lot 4.

The applicant's plan sheets contain Exhibit A and Exhibit B noted in the Agreement. Two hundred and sixteen off-street parking places were approved with the Final Development plan for Lot 4 and 142 off-street parking spaces were constructed. Seventy four parking spaces within the amendment site have not been constructed. Landscaping within the amendment site was not installed except for shrubs adjacent to the S. 4th Street and Colorado Street frontages and several trees on the perimeter. A sidewalk connection was constructed on the south part of the site from S. 4th Street to the east for pedestrian access. The balance of the site is seeded and is now grass covered. Utility equipment is located in the northwestern part of the amendment site. This space will be screened.

Permitted Uses

The Permitted Uses of the PUD include all of the Permitted Uses of the C-4, Central Business District, and a City Park, Conference Center, Parking Garage, and Museum. A drive-in restaurant, restricted to a coffee and bakery restaurant use, is permitted in the east end of the mixed-use building on Lot 3, Downtown Entertainment District PUD, and Unit Three. The C-4 District allows a broad range of retail, services and residential uses.

The Downtown Entertainment District is an extension of the C-4, Central Business District, not including the conditional uses of the C-4, except for the drive-in restaurant on Lot 3, Unit Three.

Existing development in the PUD includes recently a constructed hotel, conference center, parking garage, museum, park, and office building. Two mixed use commercial/residential buildings and two hotels will be constructed in the near or longer term. Additional improvements in the PUD include public and private off-street, landscaping, signage and other improvements.

The site is within the South Project Area of the Downtown Redevelopment Plan. The Downtown Redevelopment-Entertainment District Design Guidelines (*attached*) apply to the proposed development.

Approved Use and Building on Lot 4

The existing use and structure on Lot 4 is a four-story Hilton Gardens Inn approximately 46 feet in height fronting on S. 3rd Street between Colorado Street and the Conference Center. Exterior materials are a combination of brick, limestone veneer and EFIS. The hotel's main entrance is off S. 3rd Street with a second entrance off the west side of the hotel adjacent to the hotel's parking lot. Current room count is 133 rooms with a future expansion on the north end of the hotel for 48 +/- rooms. The hotel floor space includes a dining room, fitness area, meeting rooms, and administrative and mechanical rooms. The parking lot located to the west of the hotel has curb cuts off Colorado Street and S. 4th Street and 216 approved and 142 constructed off-street parking spaces. Pedestrian walkways and sidewalks connect to the hotel entrances from all streets.

PROPOSED AMENDMENT OF LOT 4

The proposed application consists of an amendment of Ordinance No. 6804 and the approved Final Development Plan of Lot 4, Downtown Entertainment District Commercial Planned Unit Development District. Changes include reduction of the approved 216 off-street parking spaces for the existing Hilton Garden Inn's off-street parking lot from 216 to 142, and revisions to the landscaping plan within the parking lot for a proposed four-story mixed use building. The first floor of the mixed use building will be commercial use. Floors two, three and four are for twenty four residential dwelling units. The amendment is in the form of a Final Development Plan.

Proposed Use and Building:

The four-story mixed use building is generally along the S. 4th Street and Colorado Street frontages and is set back 29 feet from the S. 4th Street property line due to a 20 foot utility easement and is set back 35 feet from the Colorado Street property line due to a 35 foot utility easement.

The building is 49 feet in height to the roof cornice with an additional 8 feet of height for loft height for 4th floor units. Exterior materials are brick, a mixture of metal and composite metal panels on the second through fourth floors and cast stone bands on upper floors. Ground floors are brick, cast stone and store front windows. Each dwelling unit has a balcony with extensive window space.

The first floor contains 8,337 gross square feet of retail and restaurant space. Floors two through four are 8,294 square feet of residential space per floor, for a total of 24 dwelling units, with five, one bedroom and three, two bedroom units per floor, or 15, one bedroom

Attachment No. 1

dwelling units and nine, two bedroom dwelling units. Total floor space for the building is 33,219 square feet. Stairwells are in the northwest and southeast corners of the building with an elevator in the southeast corner opposite the stairwell. Retail space doorway entrances and windows are oriented to S. 4th Street.

Adjacent to the western ground floor retail floor space is an outdoor plaza and restaurant eating area enclosed by a low wrought iron fence and landscape buffer. Landscaped green and plant spaces are on the north and east sides of the building along with a resident plaza area. Landscaping is also proposed behind the edge of the sidewalks. The landscape/green space on the east side of the building is an area to walk pets.

A bike rack is located opposite the southeastern entrance to the residential stairwell.

PROPOSED SIGNS: Exterior wall signs, 30 square feet in area, are proposed over tenant doorways. A projecting identification sign is proposed on the southeast and northwest corners of the building and extends approximately four feet six inches, a distance generally equal to the balcony projection.

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: Exterior lighting is wall luminaries on the first floor with the balance of lighting from existing parking lot lights.

Design Guidelines for Downtown Redevelopment

Existing Lot 4 is within the South Project Area of the Downtown Redevelopment Plan. The Downtown Redevelopment-Entertainment District Design Guidelines (*attached*) 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.

Attachment No. 1

A letter from Patrick Schaub, AIA, LEED AP BD&C, Bowman Bowman Novick Inc., dated May 2, 2012, is a review of the amendment based on the Design Guideline with comments on Guidelines 1b (page 3-1, 6th bullet point, in the Design Guidelines), and 4a-d (page 4-2, 4th, 6th, 7th and 8th bullet points, respectively, of the Design Guidelines). The applicant's consultant, David A. Parrish, AIA, LEED AP, responded in a letter dated April 16, 2012, (*attached*), which includes several Exception requests that were addressed in updated plans submitted after April 16th and not addressed in Schaub's letter (1b and 5a-d are the current Exceptions applicable to Schaub's May 2, 2012, letter).

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.

**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 the approved PUD which envisions an extension of the C-4 District with a broad range of mixed use retail and residential uses. The proposed amendment will promote the efficient development and preservation of the entire PUD by allowing a more efficient and economically beneficial use of off-street parking spaces for commercial and residential uses. In addition, the amendment will facilitate and attract more retail and retail services to the PUD as well as the City's central business district and increase residential occupancy in support of those retail activities. The amendment also adds a quality building and landscaping consistent with the Design Guidelines for the Downtown Entertainment 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 applicant indicates that, “The proposed change is not due to changing condition but as an accent to the Downtown Entertainment District. The amendment proposed at the February 7th, 2012 Planning commission for Lot 9 of this District shows that the intent of the addition is acceptable”.

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: The proposed amendment will result in a relative gain to the public health, safety, convenience or general welfare by providing additional residential, retail and dining options in the downtown area. No special benefit is conferred by the proposed amendment as the public at large will benefit from the additional retail and residential options in the downtown area.

ADDITIONAL MATTERS TO BE CONSIDERED WHEN AMENDING A PLANNED UNIT DEVELOPMENT

1. LANDSCAPING: Landscaping consists primarily of foundation and border shrubs and perennials, six ornamental trees, and fescue sod spaces. Underground irrigation will be provided for watering landscape space.

2. SCREENING: A six foot four inch trash enclosure is proposed near the northeast corner of the building constructed of brick and cast stone with metal gates matching the buildings color.

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 for the entire PUD, the Downtown Entertainment District Drainage Impact Study, 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 are minimized. The site will be accessed from the surrounding street system and a curb cut off S. 4th Street and Colorado Street and public sidewalk from the surrounding neighborhood.

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George Butler and Associates previously provided a memorandum dated October 28, 2005, of traffic analyses for the entire North and South Project Area, which indicated nominal impact on the surrounding transportation network as a result of the approved rezoning. The City Engineer reviewed and accepted the analysis with the approved PUD.

Off-Street Parking

The applicant's consultant, Kaw Valley Engineering, submitted an analysis (*attached*) of the proposed off-street parking for the combined uses on Lot 4.

There are currently 216 approved off-street parking spaces and 142 having been constructed.

Using Manhattan Zoning parking ratios:

- Hotel 133 rooms: 1 per room plus 2 or 135 required off-street parking spaces. 15 one bedroom units: 2 per unit or 30 required off-street parking spaces.
- 9 two bedroom units: 3 per unit or 27 required off-street parking spaces.
- Restaurant: 1 per 3 persons based on occupancy plus 1 per employee on largest shift, or 30 required off-street parking spaces.
- Retail: 1 per 250 square feet of floor area (3,559 gross square feet) or 14-15 required off-street parking spaces.

- Total for combined proposed uses: 236 off-street parking spaces and 142 are available, or 94 off-street parking spaces less than required.

The applicant's consultant, Kaw Valley Engineering, submitted a parking analysis, *Parking Generation Study SE Corner 4th & Colorado, Manhattan, Kansas*, dated April 6, 2012 (*attached*). The analysis examines the existing hotel parking conditions and proposed mixed use building using the *Parking Generation, 3rd Edition: An Institute of Transportation Engineers Informational Report* (ITE). Parking ratios below are based on the information provided in the consultant's analysis of the ITE Report.

The hotel ratio provided in the consultant's analysis is based on national average, expressed by month as a percentage. The 12 month range is from 48% to 72% of the required number of parking spaces. The average was used because the new hotel does not have a track record, which will take several years to establish. The analysis also indicates there are peak hours and overlaps between employees and guests.

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The standard residential ratios are generally high and are more consistent with occupancy by unrelated people. It is not uncommon to allow parking per bedroom, which would reduce the 57 parking spaces to 33 parking spaces. The applicant's consultant has suggested the ratio should be one per unit, based on their analysis of central business district standards or 24 spaces, which are specifically set aside in the parking lot, and signed as dedicated for tenants. This results in a net 118 parking spaces for the hotel, restaurant and retail spaces.

The consultant indicates the ITE restaurant ratio is consistent with the Zoning Regulations, but there is a demand peak for each day ranging from 30%-49% on certain days up to 100% on Saturday.

The retail space parking ratio is slightly higher than the Zoning Regulation standard or seven more than required, or 14-15 versus 22 per the ITE.

The consultant's analysis suggests one scenario based demand for a Wednesday afternoon at 3 PM to Friday evening at 8 PM. The consultant suggests there may be many scenarios. The consultant's concludes that a parking reduction can be achieved based on ITE standards and peak demands for the day, week and season and that there are times when peaks may affect the neighborhood; however, this will not be the norm.

Staff Analysis

The Manhattan Zoning Regulations do not require off-street parking for any use in the C-4 Central Business District. Off-street parking is maximized within the PUD, and separate uses have not been required to meet standard Zoning Regulation requirements for the minimum number of off-street parking spaces provided on Lot 4 for the hotel. Requiring minimum off-street parking standards in the PUD, which is an extension of the Central Business District, would sacrifice floor space in lieu of surface parking, which will generally be adequate on Lot 4, except at peak demands.

In addition, there are 436 parking spaces available in the parking garage in the PUD that can be used. There will be times when peak demand exceeds existing parking within the PUD. Parking is also available on adjoining public streets and in public parking lots located in the surrounding area to the northwest at S. 5th Street and Pierre Street, recently constructed parking on the southwest corner of Houston Street and S. 4th Street, and at the Manhattan Town Center parking lot. Some overflow during peak times may encroach to the west into what is largely a commercial neighborhood between S. 4th Street and S. 5th Street, and it is less likely that overflow would extend onto Colorado Street west of S. 4th Street because the street is one way east from S. 5th to S. 4th Streets.

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Peter Clark, P.E., Civil Design Engineer, of the City of Manhattan's Engineering Division, Public Works Department, reviewed the consultant's parking generation report (*memorandum dated May 1, 2012, attached*) and indicates, "Public Works staff recommends that this parking study be accepted and that the knowledge that a reduced amount of parking spaces should be taken into account by the developer and future tenants when planning large events in the Downtown Entertainment District. Accommodations, such as shuttle services or other measures, should be implemented to ensure that adequate parking is obtained during special events and that parking will not spill over and impact the neighborhood directly to the west."

5. OPEN SPACE/LANDSCAPED AND COMMON AREA: The owner will be responsible for maintenance of open landscaped space around the building

6. CHARACTER OF THE NEIGHBORHOOD: The amendment site is within a predominately commercial area commonly known as the Downtown Entertainment District with a conference center, parking garage, city park, museum, hotels, and mixed use commercial-residential ground level and upper floor residential. A major street corridor adjoins the site on its west side, S. 4th Street, with a local street, Colorado Street, on its north side. Major street corridors are nearby including Ft. Riley Boulevard to the south and S. 3rd Street to the east. Further south are commercial and industrial uses. To the west of S. 4th Street is a mix of single-family, two-family, multiple-family, including two 47 dwelling unit four and five story apartment buildings, service commercial and retail uses further to the northwest and southwest. Residential uses increase to the west of S. 5th Street. To the north are Pierre Street and a mix of uses including a hotel, Manhattan Town Center and Manhattan's Central Business District.

MATTERS TO BE CONSIDERED WHEN REZONING

1. EXISTING USE: An open green space within Lot 4 subject to an Agreement between the City and owner subject to approval of an amendment of the PUD described above under **EXISTING PUD AND APPROVED LOT 4.**

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. The amendment site is grass covered with landscaping shrubs on the northern and western property lines and several trees on the perimeter of the site.

3. SURROUNDING LAND USE AND ZONING:

(a.) NORTH: Colorado Street, hotel, Pierre Street, Manhattan Town Center and the Central Business District.; C-5, Highway Business District with RDO, Redevelopment District Overlay and C-4 District.

(b.) SOUTH: Conference center, parking garage, retail and Ft. Riley Boulevard; Downtown Entertainment District Commercial PUD, and LM-SC, Light manufacturing Service Commercial District.

(c.) EAST: Hilton Garden hotel, parking lot, S. 3rd Street, Discovery Center, Blue Earth Park, public parking lot, hotels, mixed use building; Downtown Entertainment District Commercial PUD.

(d.) WEST: S. 4th Street, single-family, two family and multiple-family buildings (a four story and five story apartment building with 47 dwelling units per building), auto sales and service, and other service commercial uses; PUD, R-M, Four-Family Residential District, and C-5, Highway Service Commercial District, C-4 District.

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 is suitable for the approved off-street parking lot for the Hilton Garden Inn, subject to approval of an amendment.

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 residential 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 and residential character of the neighborhood. Residential properties west of the site are the smallest part of the neighborhood to the west, which is separated by S. 4th Street, a major north south street. Minimal impacts on adjacent properties are anticipated and detrimental effects are not expected. Some overflow parking may occur in the largely commercial neighborhood to the west during peak event times in the PUD, but should not be the common occurrence.

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Historic property potentially impacted by the proposed project is the Downtown Manhattan Historic District. The Manhattan Historic Resources Board reviewed the proposed project at its meeting on November 28, 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 with the condition that all metal panels and span metal materials on the top floor match the historic district colors, specifically the earth tone colors”, (*attached letter dated November 29, 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 HRB’s condition is advisory only. The SHPO’s letter (*attached*), dated December 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 site 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 conforms 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.**

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- 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.
- August 2, 2011 City Commission and HCW-Manhattan LLC sign agreement to delay construction of the entire off-street parking lot for the Hilton Garden hotel.

The building permit for the hotel was issued on August 26, 2010, and the Certificate of Occupancy was issued on December 20, 2011.

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

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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 and Final Development Plan are consistent with the intent and purposes of the Zoning Regulations, and the intent of the PUD Regulations.

The PUD is an extension of the C-4 District, which is the primary commercial center of the community and is designed to provide for a broad range of retail shopping facilities, services, and cultural activities, including residential with no off-street parking requirements.

Proposed Amendment

The proposed mixed use building is consistent with the Downtown Entertainment District and is an appropriate mix of uses consistent with the intent and purpose of the Manhattan Zoning Regulations and the Downtown Entertainment PUD.

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. Denial of the amendment would be a hardship on the owner because no adverse effects on the public are expected.

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

12. OTHER APPLICABLE FACTORS: There are no other applicable factors.

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 a proposed amendment of Ordinance No. 6804 and the amended Final Development Plan of Lot 4, Downtown Entertainment District Commercial Planned Unit Development District for modifications to the existing Hilton Garden Inn's off-street parking lot including reduction of the number of off-street parking spaces and landscape plan, and adding a proposed four-story mixed use building,

subject to the following condition:

1. 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 amended Final Development Plan of Lot 4, Downtown Entertainment District Commercial Planned Unit Development District for modifications to the existing Hilton Garden Inn's off-street parking lot including reduction of the number of off-street parking spaces and landscape plan, and adding a proposed four-story mixed use building, stating the basis for such recommendation.
2. Recommend denial of the proposed amendment of Ordinance No. 6804 and the amended Final Development Plan of Lot 4, Downtown Entertainment District Commercial Planned Unit Development District for modifications to the existing Hilton Garden Inn's off-street parking lot including reduction of the number of off-street parking spaces and landscape plan, and adding a proposed four-story mixed use building, 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 amended Final Development Plan of Lot 4, Downtown Entertainment District Commercial Planned Unit Development District for modifications to the existing Hilton Garden Inn's off-street parking lot including reduction of the number of off-street parking spaces and landscape plan, and adding a proposed four-story mixed use building, based on the findings in the Staff Report, subject to the one condition of approval recommended by City Administration.

PREPARED BY: Steve Zilkie, AICP, Senior Planner.

DATE: May 2, 2012.