



MINUTES
CITY COMMISSION MEETING
TUESDAY, JANUARY 20, 2015
7:00 P.M.

The Regular Meeting of the City Commission was held at 7:00 p.m. in the City Commission Room. Mayor Wynn Butler and Commissioners Karen McCulloh, Usha Reddi, Richard B. Jankovich, and John Matta were present. Also present were the City Manager Ron R. Fehr, Deputy City Manager Jason Hilgers, Assistant City Manager Kiel Mangus, City Attorney Bill Raymond, City Clerk Gary S. Fees, 7 staff, and approximately 40 interested citizens.

PLEDGE OF ALLEGIANCE

Mayor Butler led the Commission in the Pledge of Allegiance.

COMMISSIONER COMMENTS

Commissioner Jankovich thanked the Manhattan Noon Club and Konza Rotary Club for sponsoring the skate day at the Wefald Pavilion on Monday, January 19, 2015. He stated that it was a great event and good work between the two Rotary Club's to provide a fun time for individuals and families.

Commissioner Reddi stated that the grand opening for the new Children's Library addition to the Manhattan Public Library was held on January 17, 2015, and said this is a fantastic place to visit and to see what public and private funds can accomplish. She encouraged the community to attend the Zoofari Tails reading program this Friday at the Library with Sunset Zoo staff. She also thanked those that participated in the Martin Luther King Junior events over the weekend and stated that this was a great experience. Finally, she informed citizens that the deadline to file for candidacy on the City Commission or School Board is January 27, 2015.

Commissioner McCulloh encouraged the community to attend the new exhibit at the Flint Hills Discovery Center, K is for Kansas: Exploring Kansas from A to Z, starting January 24, 2015. She stated that it was wonderful to see all the people enjoying City Park during the day and utilizing the great green space available.

CONSENT AGENDA
(* denotes those items discussed)

MINUTES

The Commission approved the minutes of the Regular City Commission Meeting held Tuesday, January 6, 2015.

CLAIMS REGISTER NOS. 2778 AND 2779

The Commission approved Claims Register Nos. 2778 and 2779 authorizing and approving the payment of claims from December 31, 2014, to January 13, 2015, in the amount of \$1,210,156.16 and \$2,589,365.04, respectively.

LICENSES

The Commission approved a Tree Maintenance License for calendar year 2015 for Paul's Tree Service, Inc., 27530 Oregon Trail Road, Saint Mary's, Kansas; Two Big Feet Tree Pruning & Removal, 405 North 5th Street; and Wildcat Tree Service, 3761 Cumberland Road; an annual Cereal Malt Beverages On-Premises License for Hunam Express Chinese Restaurant, 1112 Moro Street; and an annual Cereal Malt Beverages Off-Premises License for Wildcat Creek Golf & Fitness, 800 Anneberg Circle.

FINAL PLAT – MANHATTAN CROSSING COMMERCIAL PUD, UNIT TWO

The Commission accepted the easements and rights-of-way, as shown on the Final Plat of Manhattan Crossing Commercial Planned Unit Development, Unit Two, generally located northeast of the Tuttle Creek Boulevard Frontage Road and Sarber Lane, based on conformance with the Manhattan Urban Area Subdivision Regulations.

FINAL PLAT – ABBOTT LANDING ADDITION COMMERCIAL PUD

The Commission accepted the easements and rights-of-way, as shown on the Final Plat of Abbott Landing Addition, a Commercial Planned Unit Development, generally located on the northeast corner of Hayes Drive and McCall Road, based on conformance with the Manhattan Urban Area Subdivision Regulations.

SET PUBLIC HEARING DATE – LEVY SPECIAL ASSESSMENTS

The Commission set February 3, 2015, as the date to hold a public hearing levying special assessments against the benefiting properties in the following three (3) projects, which have been completed: *Western Hills Addition, Unit Fourteen – Sanitary Sewer (SS1208), Street (ST1210), and Water (WA1209)*.

RESOLUTION NO. 012015-A – AMEND POOL FEES AND SEASON PASSES

The Commission approved Resolution No. 012015-A amending pool season passes fees effective February 1, 2015.

CONSENT AGENDA (CONTINUED)

RESOLUTION NO. 012015-B – PETITION – SCENIC MEADOWS, UNIT 3, PHASE 3 – STREET IMPROVEMENTS (ST1421)

The Commission found the petition sufficient; approved Resolution No. 012015-B finding the project advisable and authorizing construction; and authorized the Mayor and City Clerk to execute an agreement in an amount not to exceed \$24,495.00 with SMH Consultants, of Manhattan, Kansas, to perform professional services for the Scenic Meadows, Unit 3, Phase 3, Street Improvements (ST1421).

AWARD CONTRACT – MUIRFIELD ADDITION, PHASE 1 – SANITARY SEWER IMPROVEMENTS (SS1417)

The Commission accepted the Engineer's Opinion of Probable Cost in the amount of \$181,335.00; awarded a construction contract in the amount of \$178,955.00 to Larson Construction, Inc., of Manhattan, Kansas; and authorized the Mayor and City Clerk to execute the contract for the Muirfield Addition, Phase I, Sanitary Sewer Improvements (SS1417).

CONTRACT – FLINT HILLS AREA TRANSPORTATION AGENCY

The Commission approved the Flint Hills Area Transportation Agency contract as budgeted in the 2015 City Budget and authorized the Mayor and City Clerk to execute the contract.

CONSERVATION EASEMENT – WILDCAT CREEK LIFT STATION BANK STABILIZATION (SS1424)

The Commission authorized City Administration to finalize and the Mayor and the City Clerk to execute a Conservation Easement for the parcel of real estate for the Wildcat Creek Lift Station Bank Stabilization project (SS1424).

Commissioner McCulloh moved to approve the consent agenda. Commissioner Jankovich seconded the motion. On a roll call vote, motion carried 5-0.

GENERAL AGENDA

FIRST READING - REZONE - VACANT TRACT AT THE INTERSECTION OF COLLEGE AVENUE AND VAUGHN DRIVE - COMMERCIAL PLANNED UNIT DEVELOPMENT TO MERCY REGIONAL HEALTH CENTER PLANNED UNIT DEVELOPMENT

Commissioner Jankovich announced that he would recuse himself from the item due to a business relationship with the applicant.

GENERAL AGENDA (CONTINUED)

FIRST READING - REZONE - VACANT TRACT AT THE INTERSECTION OF COLLEGE AVENUE AND VAUGHN DRIVE - COMMERCIAL PLANNED UNIT DEVELOPMENT TO MERCY REGIONAL HEALTH CENTER PLANNED UNIT DEVELOPMENT (CONTINUED)

Eric Cattell, Assistant Director for Planning, presented an overview of the item.

Mayor Butler opened the public comments.

Hearing no comments, Mayor Butler closed the public comments.

After discussion, Commissioner Reddi moved to approve the first reading of an ordinance rezoning the vacant tract, generally located northwest of the intersection of College Avenue and Vaughn Drive, from College Avenue Medical Center PUD to Mercy Regional Health Center PUD; and, amending Ordinance No. 7097 and the Preliminary Development Plan of the Mercy Regional Health Center PUD, based on the findings in the Staff Report (*See Attachment No. 1*), subject to the five (5) conditions of approval recommended by the Planning Board. Commissioner McCulloh seconded the motion. On a roll call vote, motion carried 4-0.

Commissioner Jankovich returned to the dais.

FIRST READING - AMEND ARTICLE X – FLOODPLAIN REGULATIONS OF THE MANHATTAN ZONING REGULATIONS

Chad Bunger, Senior Planner, presented information on the new flood study and flood maps; provided a schedule of events from the beginning of the process to formal adoption; and highlighted uses of future conditioning mapping, higher standard floodplain regulation concepts, floodplains and definitions, basis of the regulations, proposed regulations, elevated structures, exemptions, and regulations. He provided information regarding the combined approach to floodplain regulations, higher standard concepts and cumulative improvements, and additional steps. He presented information from the Manhattan Urban Area Planning Board meeting and their action on the item. He also responded to questions from the Commission regarding notifications, potential impacts from property owned by Kansas State University, and coordination efforts with the updates to the Comprehensive Land Use Plan.

Mayor Butler opened the public comments.

GENERAL AGENDA (CONTINUED)

FIRST READING - AMEND ARTICLE X – FLOODPLAIN REGULATIONS OF THE MANHATTAN ZONING REGULATIONS (CONTINUED)

Joe Maggio, licensed real estate broker with Remax Realtors, President, Manhattan Association of Realtors, informed the Commission that he applauded what Chad Bunger and others have done to improve issues with flooding. However, he voiced concerns with the potential impact on disclosure information. He stated that if the ordinance is passed, the seller disclosure statement will need to be amended and include additional questions for home sellers. He voiced concerns with existing homes falling within future conditions mapping, flood insurance and Federal Emergency Management Agency (FEMA) requirements, and how the secondary market will react to the change with their loan practices.

Loren Pepperd, 1404 Oaktree Place, realtor and residential appraiser, provided the Commission with a sample Inspection Residential Appraisal Report and stated that could send red flags to lenders if a home is within the City of Manhattan's standard of a flood zone even if it is not in the FEMA flood zone. He also voiced concern that this proposal could devalue a lot of homes and cause people who live there to pay extra money per month they might not be able to afford in order to get flood insurance.

Chad Bunger, Senior Planner, responded to questions regarding building elevations and flood insurance requirements.

Loren Pepperd, 1404 Oaktree Place, realtor and residential appraiser, reiterated his concerns with the secondary market and the considerations to purchase flood insurance.

Chad Bunger, Senior Planner, responded to additional questions. He provided information on the approximate number of properties impacted by the regulations, research conducted in regards to the secondary market, and additional clarification on flood insurance.

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

After additional discussion and comments from the Commission, Commissioner Jankovich moved to approve first reading of an ordinance amending Article X – Floodplain of the Manhattan Zoning Regulations, as proposed, including adoption of the new Flood Insurance Study (FIS) and Flood Insurance Rate Maps (FIRM'S), based on the findings in the Staff Memorandum and the recommendation of the Planning Board (*See Attachment No. 2*). Commissioner Reddi seconded the motion.

Ron Fehr, City Manager, responded to questions from the Commission and provided clarification on the item.

After additional comments, on a roll call vote, motion carried 5-0.

GENERAL AGENDA (CONTINUED)

REQUEST - ECONOMIC DEVELOPMENT ASSISTANCE - KANSAS STATE UNIVERSITY GOLF COURSE MANAGEMENT & RESEARCH FOUNDATION – COLBERT HILLS GOLF COURSE

Jason Hilgers, Deputy City Manager, introduced the item and provided an overview.

Bill Frost, representing Colbert Hills, presented background information on Colbert Hills and their request to the City of Manhattan for assistance. He informed the Commission that Colbert Hills is on the verge of funding its operations from the revenue its facilities generate; however, that eventuality is likely three to four years away. He provided information on why the City is being asked to contribute to Colbert Hills, presented background information on Grand Mere Parkway and its annual assessment for the roadway, and requested that the City assist Colbert Hills with its special assessment obligation over the next four years with a grant of \$100,000 each year to assist in the obligation to pay the remaining disproportionate assessment for the roadway. He also presented the economic benefits provided to the City; provided information on the construction of the facility, wages, expenses, property and sales taxes, water payments, surrounding development of ongoing construction and residential construction; highlighted recreational benefits provided to the community. He stated that Colbert Hills is willing to work with the City; however, they would like to assist with the funding request.

Tom Holcombe, President of the Board, KSU Golf Course Management & Research Foundation, provided additional information on the request to assist Colbert Hills. He stated that Colbert Hills is a significant recreational facility for the citizens of Manhattan and the imposed special assessment is disproportionate to the benefit received by the golf course, when compared to the other benefitting properties and ongoing development. He then responded to questions from the Commission and provided additional information on the operations of Colbert Hills and the relationship and contract with the Kansas State University Athletic Department. He informed the Commission that they were willing to work with the City of Manhattan in any way that they can and reiterated the value that Colbert Hills brings to Manhattan. He then responded to questions from the Commission.

Mayor Butler opened the public comments.

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

Jason Hilgers, Deputy City Manager, informed the Commission that there are a number of different strategies that can be considered and asked for their input.

GENERAL AGENDA (CONTINUED)

REQUEST - ECONOMIC DEVELOPMENT ASSISTANCE - KANSAS STATE UNIVERSITY GOLF COURSE MANAGEMENT & RESEARCH FOUNDATION – COLBERT HILLS GOLF COURSE (CONTINUED)

After discussion and comments from the Commission regarding the use of economic development funds, Ron Fehr, City Manager, responded to questions from the Commission regarding potential funding sources available if the Commission desires to proceed forward and provided information on the use of water by Colbert Hills.

Jason Hilgers, Deputy City Manager, responded to questions from the Commission and on the request to further discuss the use of economic development funds. He informed the Commission that City staff would work with Bill Frost and bring back a proposed agreement for the Commission's consideration.

After additional discussion and comments from the Commission, Commissioner Jankovich moved to approve advancing the request from Colbert Hills Foundation for further consideration and direct City Administration to develop an assistance agreement for formal review with evaluation of all available funding mechanisms included in the review. Commissioner Reddi seconded the motion.

On a roll call vote, motion carried 5-0.

At 9:15 p.m., the City Commission took a brief recess.

PROPOSAL FROM CHARLES GRIER, OWNER OF 210 NORTH EVERGREEN - POSSIBLE RESIDENTIAL EXPANSION - PURCHASE APPROXIMATELY 920 SQUARE FEET OF LAND FROM THE LANDMARK WATER TOWER TRACT

Kiel Mangus, Assistant City Manager, presented background information and an overview of the item. He also highlighted the request received from Charles Grier, property owner at 210 Evergreen Street.

Charles Grier, 210 Evergreen Street, informed the Commission that he and his wife plan to spend more time in Manhattan and requested to purchase a small tract of land from the City adjacent to his property to be able to add onto their home at 210 Evergreen Street. He stated that their family needs more space than what the current home can provide and are trying to find a way to move the project forward.

Brent Bowman, Project Architect, Bowman Bowman Novick, Inc., presented an overview of the request. He provided information on the Sunset Addition to the City of Manhattan platted and dedicated by Sam Kimble and wife; presented a site plan coverage diagram, site plan, elevations and design drawings, three dimensional image showing the relationship to water tower, and site lines from an aerial perspective. He informed the

GENERAL AGENDA (*CONTINUED*)

PROPOSAL FROM CHARLES GRIER, OWNER OF 210 NORTH EVERGREEN - POSSIBLE RESIDENTIAL EXPANSION - PURCHASE APPROXIMATELY 920 SQUARE FEET OF LAND FROM THE LANDMARK WATER TOWER TRACT (*CONTINUED*)

Commission that the item was presented during a September 2014 Historic Resources Board meeting and that plans have been modified to move the addition to the home further away from the water tower. He informed the Commission that he understood that the property owner would need to go to the Board of Zoning Appeals for the expansion to occur and asked if the Commission would consider selling the property to the Grier's.

Mayor Butler opened the public comments.

Mel Borst, 1918 Humboldt Street, provided historical information on the property and neighborhood. He presented additional information on the plat from Sam Kimble and his wife, provided historical significance and eligibility of the Landmark Water Tower, and presented information on the Historic Resources Board. He stated that he was shocked to hear that this item was being entertained by the City Commission tonight and asked the Commission to honor the agreement with Sam Kimble and continue to hold and use the public site as a historic landmark. He stated that if the Commission chooses to proceed with selling the property, to please allow others to also submit proposals for purchase of the land. He informed the Commission that he was prepared to issue a check to purchase the property and donate it back to the City, with the restriction that it continues as a conservation easement. Finally, he stated that this item has created a perception that Manhattan does not value historic properties and requested that City staff develop a written policy regarding future proposals to purchase Manhattan public land and historic property.

Bill Raymond, City Attorney, provided additional information on the subject property deed and related case law. He responded to questions from the Commission and stated that the Commission has the discretion to sell the land if the Commission chooses.

Janet Borst, 1918 Humboldt Street, provided background information on the Historic Resources Board, its initial members, and responsibilities of the Board. She informed the Commission that the neighborhood had not heard about the project until last Friday, January 16, 2015, and prior to that, the item was discussed on the Historic Resources Board agenda in September 2014. She asked what the process is to sell public land, the responsibility of the staff liaison for the Historic Resources Board, and stated that the City needs a preservation planner. She voiced concerns with the process of the item and informed the Commission that this is not only a neighborhood concern, but a community concern.

GENERAL AGENDA (*CONTINUED*)

PROPOSAL FROM CHARLES GRIER, OWNER OF 210 NORTH EVERGREEN - POSSIBLE RESIDENTIAL EXPANSION - PURCHASE APPROXIMATELY 920 SQUARE FEET OF LAND FROM THE LANDMARK WATER TOWER TRACT (*CONTINUED*)

After comments from the Commission, Ron Fehr, City Manager, responded to questions from the Commission regarding the process. He stated that it is important for the Commission to know about the item being requested by the applicant for their consideration.

Mel Borst, 1918 Humboldt Street, informed the Commission that the Landmark Water Tower is eligible for the National Historic Register and includes the site and the tower.

Brent Bowman, Project Architect, Bowman Bowman Novick, Inc., provided clarification on the proposed location of the house expansion to the Landmark Water Tower.

Tim de Noble, 1900 Sunset Lane, Professor, Kansas State University, and licensed architect, informed the Commission that the Grier's redesigned the project in a good faith effort to give the water tower its space. He stated that the Landmark Water Tower is much appreciated and is a landmark of great significance. He said the Grier's has a great stake in this item and has the ability to keep a watchful eye on the Landmark Water Tower. He also informed the Commission that he appreciated the Grier's desire to invest in the neighborhood and the city.

Sara Fisher, 811 Osage Street, President, Manhattan/Riley County Preservation Alliance, provided background information on the Landmark Water Tower, preservationists, and information on the Charleston Principles of Historic Preservation. She urged the Commission to take the opportunity to adopt a formal policy to protect the community's historical resources for everyone.

Charles Grier, 210 Evergreen Street, informed the Commission that he was not interested in having a group of people design his home, particularly from a group of people that has a lot of animosity. He stated that they have tried to accommodate with the site lines and the water tower. He stated that he has spent a lot of money already and could put up an eight-foot fence or turn the property into a rental, but was trying to stabilize and anchor the neighborhood. He requested that the Commission make a decision to proceed forward to the Board of Zoning Appeals or decide what they want to do.

GENERAL AGENDA (*CONTINUED*)

PROPOSAL FROM CHARLES GRIER, OWNER OF 210 NORTH EVERGREEN - POSSIBLE RESIDENTIAL EXPANSION - PURCHASE APPROXIMATELY 920 SQUARE FEET OF LAND FROM THE LANDMARK WATER TOWER TRACT (*CONTINUED*)

Linda Glasgow, 2236 Snowbird Drive, voiced concerns about the process and professionalism. She provided background information on the item and brief history of Sam Kimble, his wife, and on the subject property. She informed the Commission that the Landmark Water Tower is a historic structure and it is clear that the site was very important. She encouraged the Commission to live up to its responsibilities as being a Certified Local Government, that this is a historic structure, and encouraged the City to take this very seriously.

Dixie West, 1024 Houston Street, asked the Commission what the policy was in purchasing land from the City if someone offered a higher price.

Kathy Dzewaltowski, 100 South Delaware Avenue, informed the Commission that she does not support selling City public property for this use and doing something harmful to the Landmark Water Tower. She voiced concern with the proposal, provided information on the Landmark Water Tower, and stated that it was not advisable to sell off a portion of land near the Landmark Water Tower.

Benston Oleen, 1920 Humboldt Street, urged the Commission to listen to the concerns expressed from the neighbors and to keep the land and historic site as public property. He encouraged consideration to make additions to the Grier property without selling any public land and to maintain as much of the Landmark Water Tower property for everyone.

Donna Schenck Hamlin, 1922 Leavenworth Street, informed the Commission about the process to register their home. She stated that they are very proud of this community in restoring the Delaware Avenue and Leavenworth Street steps and how little graffiti appears on the Landmark Water Tower. She encouraged the Commission to establish a procedure or policy that is transparent and consistent with the values as a community regarding historical sites and will improve the process.

Jim Roberts, 1900 block Pierre Street, provided background information on historical information regarding the site and conversations that he had with Charles Bissey when he was still living in Manhattan. He informed the Commission that all the public property around the Landmark Water Tower is historic and deserves to be preserved and enjoyed by the public.

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

GENERAL AGENDA (*CONTINUED*)

PROPOSAL FROM CHARLES GRIER, OWNER OF 210 NORTH EVERGREEN - POSSIBLE RESIDENTIAL EXPANSION - PURCHASE APPROXIMATELY 920 SQUARE FEET OF LAND FROM THE LANDMARK WATER TOWER TRACT (*CONTINUED*)

Commissioner Jankovich provided comments regarding the item, the process, history of the Landmark Water Tower, and offer received from a homeowner to acquire a piece of public property. He voiced his disappointment with the animosity this item has created, pitting neighbors against neighbors, and stated the he did not think this was healthy at all. He discussed the next potential steps in taking the item to the Board of Zoning Appeals and the opportunity for additional public input.

Commissioner Matta stated that he liked the plan presented and the proposed setback of the building expansion from the water tower. He said that he really did not like the idea of a bidding war because the Grier's have spent a significant amount of time, and has done so in good faith, to provide the City with a proposal and a price for Commission consideration. He voiced support to entertain the motion and move the item forward.

Commissioner Reddi stated that she talked with Susie Grier and had a good conversation about living in Manhattan and hoping to spend more time here with her family. She said that the reason the Grier's want to expand their house at this location is because of the Landmark Water Tower. She stated that the Grier's have modified and compromised from their initial design and recommended allowing them a chance to take the item to the Board of Zoning Appeals. She voiced her appreciation with the concerns expressed regarding the process and communication. She requested that a future work session be held to discuss selling City-owned land and to improve the process and procedures.

Commissioner McCulloh commented about the process and stated that the City has not done well by either party. She expressed her opposition and desire to maintain the City-owned land acquired from Sam Kimble as public space around the Landmark Water Tower. She also voiced her concerns that the neighborhood was upset. She stated that she could not support the item.

Mayor Butler stated that the process was followed and the item needed to come to the City Commission. He provided additional information on the item and said the proposed expansion to the existing home would not destroy the water tower or move it, but would put the building expansion closer to the water tower. He voiced support to place the water tower on the historic registry and to consider creating a pocket park in this area. He stated the proposal will allow the Grier's to expand their home and increase the tax base in the neighborhood. Finally, he stated that after review of the facts, it makes sense to allow the Grier's to take the item to the Board of Zoning Appeals.

GENERAL AGENDA (CONTINUED)

PROPOSAL FROM CHARLES GRIER, OWNER OF 210 NORTH EVERGREEN - POSSIBLE RESIDENTIAL EXPANSION - PURCHASE APPROXIMATELY 920 SQUARE FEET OF LAND FROM THE LANDMARK WATER TOWER TRACT (CONTINUED)

After further discussion and additional comments from the Commission, Commissioner Matta moved to approve advancing the request for City property adjacent to 201 N. Evergreen and co-sign an application as the property owner to the Board of Zoning Appeals to determine a project outcome. Commissioner Jankovich seconded the motion. On a roll call vote, motion carried 4-1, with Commissioner McCulloh voting against the motion.

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

ADJOURNMENT

At 11:32 p.m., the Commission adjourned.



Gary S. Fees, MMC, City Clerk

STAFF REPORT

APPLICATION TO REZONE PROPERTY TO PLANNED UNIT DEVELOPMENT DISTRICT AND AMEND ORDINANCE NO. 7097.

BACKGROUND

FROM: College Avenue Medical Center PUD, Commercial Planned Unit Development

TO: Mercy Regional Health Center PUD, Commercial Planned Unit Development

OWNERS/APPLICANT: Mercy Regional Health Center, Inc. – John Broberg, Senior Administrator

DATE OF NEIGHBORHOOD MEETING: November 16, 2014

DATE OF PUBLIC NOTICE PUBLICATION: December 15, 2014

DATE OF PUBLIC HEARING: PLANNING BOARD: January 5, 2015
CITY COMMISSION: January 20, 2015

LEGAL DESCRIPTION: The site is an unplatted tract in Section 12, Township 10 South, Range 7 East.

LOCATION: Generally located to the northwest of the intersection of College Avenue and Vaughn Drive.

AREA: 0.95 acres.

PROPOSED USES: An off-street parking lot associated with the existing Mercy Regional Hospital Emergency Department entrance.

PROPOSED BUILDINGS AND STRUCTURES: The proposal is to rezone the vacant tract to be a part of the Mercy Regional Health Center and amend Ordinance No. 7097 to allow for the proposed off-street parking lot.

The recently approved PUD includes the existing Mercy Regional Hospital and a storage building, and Manhattan Surgical Center, the new 33,000 square foot medical office building, the existing air ambulance helicopter landing pad, off-street parking lots and landscaping. An application has not been made to date for a Final Development Plan for the hospital property.

Attachment No. 1

The proposed use of the site to be added to the Mercy Regional Health Center PUD is an eighty (80) stall off-street parking lot and associated landscaping. The parking lot is intended to be used for the Emergency Department and other hospital departments near the southeast building entrance. The parking lot will gain access from the internal driving aisle on the hospital site. Sidewalks and pedestrian crosswalks are shown on the site to connect to existing sidewalks on the hospital site and to the entrances of the building.

Eight-hundred forty-five (845) off-street parking stalls were approved with the Mercy Regional Health Center PUD Preliminary Development Plan. The proposed Preliminary Development for the off-street parking lot would eliminate one (1) existing parking space to the northeast of the site. If approved, the total off-street parking count for the entire health center site would be 924.

A note on the PUD site plan states that the PUD site has an existing agreement with Kansas State University to share 250 parking stalls in the football stadium parking lot to the east of the PUD site during non-game days. These parking spaces are not included in the site parking calculation.

Note: A small building addition to the Emergency Department is shown on the Preliminary Development Plans. The addition is approximately 2,850 square feet in area. Because of the relatively small size of the addition and the process that the Mercy Regional Health Center PUD is in, City Administration has determined that the Emergency Department addition will be addressed with the Final Development Plans for the overall PUD.

PROPOSED LOT COVERAGE

Use	Square Feet	Percentage
Building	184,170	20.0%
Paved Area (Parking, Driveways & Sidewalks)	458,843	49.8%
Landscape & Manicured Lawn Area	279,184	30.3%
Total Open Space		30.3%
Total Impervious		69.7%

SIGNS: Only directional and regulatory signs are proposed for the rezoning site. Various wall and pylon signs for the existing hospital, surgical center and new medical office building were approved with the Preliminary Development Plan.

PROPOSED LIGHTING: New LED light fixtures are to be mounted on twenty-five (25) foot tall poles to illuminate the new off-street parking lot. The application materials state the proposed light fixtures can be directed to limit light spillage onto adjacent properties. An illumination study was conducted for the site that shows the light from the proposed LED fixtures should not migrate to neighboring properties. The Zoning Regulations requires that all lighting be shielded and fully cut off.

New and existing lighting was approved for the hospital site with the Preliminary Development Plan completed in October, 2014.

SIX REVIEW CRITERIA FOR PLANNED UNIT DEVELOPMENTS

1. LANDSCAPING: The application site plan shows that the perimeter of the off-street will be heavily landscaped with deciduous shade trees, evergreen trees, and ornamental trees, upright evergreen trees for screening, shrubs and ornamental grasses. The perimeter of the parking lot, adjacent to the streets, and streets will also be planted with grass.

2. SCREENING: Due to the off-street parking lot being located next to an established residential neighborhood, the applicant has provided significant landscaping around the site. This year-around landscaping will screen the adjacent neighbors from the parking lot and also provide a visual buffer along the streets. No sight-obscuring screening is proposed.

3. DRAINAGE: The off-street parking lot is less than one (1) acre in area. Because of this, a detailed drainage study and post-construction best management study for water quality was not required.

However, the applicant has worked with the City to create a drainage plan for the site that will minimize impacts on adjacent properties. The application site plans shows the stormwater will be collected on the parking lot by area inlets and directed, via underground stormwater infrastructure, to College Avenue. The storm water runoff will flow to the north on College Avenue to the headwaters of the Marlatt Ditch drainage area.

The hospital site has a detention/retention basin on the northeast corner of the site. The City Engineer has determined that the size of the basin accommodates the stormwater runoff from current development and the new medical office building to an appropriate level. The redirected stormwater will not adversely impact the properties downstream on the Marlatt Ditch

Attachment No. 1

The City Engineer prefers this plan over directing the stormwater to the south towards the existing residential neighborhood. The residential neighborhood is in the upper reaches of the Wildcat Creek Watershed.

4. CIRCULATION: Vehicle access to the site will be from the internal driving lane south of the hospital that intersects with College Avenue.

Because of the size and scope of the proposed off-street parking lot and that it does not directly connect to City streets, a traffic analysis was not required by the City's Traffic Engineer. No new buildings or significant expansions are proposed on the hospital site that would create a new traffic demand that would increase traffic to the site.

The proposed parking lot is located to provide more parking for patients and visitors to the emergency department and other departments near the south east entrance.

Pedestrian and Bicycle Access

Sidewalks are found along College Avenue and internal to the PUD site to provide pedestrian access to the existing and medical office buildings. Sidewalks and a pedestrian crosswalk are proposed in the proposed parking to connect to the existing sidewalks on the hospital site.

Bike racks were shown on the Preliminary Development Plans for the hospital site. The number and location of these bike racks will be finalized during the Final Development Plan process.

Off-Street Parking

As previously stated, eight-hundred forty-five (845) off-street parking stalls was approved in the Preliminary Development Plan process on the hospital site. Eighty (80) new off-street parking lots are proposed on the rezoning site. The location of the proposed parking lot will remove one (1) existing parking space from the hospital site. The total off-street parking on the Mercy Regional Health Center campus, including the proposed off-street parking lot will be 924.

A note on the PUD site plan states that the PUD site has an existing agreement with Kansas State University to share 250 parking stalls in the football stadium parking lot to the east of the PUD site during non-game days. These parking spaces are not included in the site parking calculation.

No new buildings or major expansions are proposed that would require additional off-street parking. The proposed parking lot is to provide parking for patients and visitors to the Emergency Department and other hospital departments near the southeast entrance.

Attachment No. 1

Considering the existing developments, the parking agreement with the University and the proposed campus setting of medical office buildings, the off-street parking appears to be adequate. No on-street parking on adjacent congested streets should occur from the existing and proposed developments.

5. OPEN SPACE AND COMMON AREA: Open space on the site is limited to manicured grass lawn areas around the parking lot and along the roadways. There are outdoor opens areas adjacent to the existing and proposed buildings for patients, visitors and staff on the hospital site, but the space is generally limited.

6. CHARACTER OF THE NEIGHBORHOOD: The surrounding neighborhood can be characterized by a mix of single-family homes, most of which are rental units, multiple-family apartment complexes, the hospital and surgical center and the Kansas State University Sports Complex. The single-family homes are generally located on small lots to the south and west of the site. The apartment complexes are located to the north, across Kimball Avenue.

**THIRTEEN MATTERS TO BE CONSIDERED WHEN CHANGING
ZONING DISTRICTS**

1. EXISTING USE: A vacant tract of land owned by the Mercy Regional Health Center. Approved uses of the PUD include Mercy Regional Hospital with air ambulance helicopter landing pad and off-street parking lots, existing Manhattan Surgical Center and off-street parking lots and a vacant lot that was the former location of the St. Joseph Retirement Center and Nursing Home. The recently approved medical office building is to be constructed on the former nursing home site. The Final Development Plan process for that site needs to be complete before a building permit can be issued for the new building.

2. PHYSICAL AND ENVIRONMENTAL CHARACTERISTICS: The rezoning site is generally flat. Stormwater runoff naturally flows to the south toward the residential neighborhood along Vaughn Drive. The site is bounded by the Mercy Regional Health Center to the north, College Avenue to the east and single-family homes to the west and south. Both streets are four-lane minor arterial roadways. Vaughn Drive, a local residential street is immediately to the south of the rezoning site.

3. SURROUNDING LAND USE AND ZONING:

NORTH: Mercy Regional Health Center Campus; Commercial PUD.

Attachment No. 1

SOUTH: Vaughn Drive, a two-lane, local street and single-family homes; R, Single-Family Residential District.

EAST: College Avenue, a four-lane minor arterial roadway and the Kansas State Sports Complex; R-1, Single-Family Residential District, R District and U, University District.

WEST: Single-Family Homes; R District

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

5. SUITABILITY OF SITE FOR USES UNDER CURRENT ZONING: The site is currently zoned College Avenue Medical Office PUD. The PUD was established in 1991 to construct a two-story medical office building with 9,800 square feet of floor area and an accessory off-street parking lot. A Final Development Plan was never submitted. Several extensions were approved by the MUAPB, with the last one occurring in 2000, expiring in November, 2001.

Section 9-107, Abandonment or Failure to Proceed, dictates the procedure for dealing with PUD's that are abandoned. Basically, if a Final Development Plan is not submitted within two (2) years of the original approval or extensions are not granted, the project is considered abandoned and the MUAPB can proceed with rezoning the site to an appropriate classification. The MUAPB never proceeded with the rezoning process of the site. The site is not suitable under its current zoning district.

6. COMPATIBILITY OF PROPOSED DISTRICT WITH NEARBY PROPERTIES AND EXTENT TO WHICH IT MAY HAVE DETRIMENTAL AFFECTS: The area to the south and west is zoned R, Single-Family Residential District and consists of single-family homes, most of which are rental units. The site has remained vacant since 1991, when the site was rezoned from R, Single-Family Residential District to Commercial PUD for the College Avenue Medical Office.

The proposed rezoning to PUD and the Preliminary Development Plan to construct a parking lot with eighty (80) spaces will increase the amount of noise, light and traffic to the area, compared to the existing vacant land. The applicant has developed a site plan with significant landscaping in the form of deciduous and evergreen trees and shrubs along the west property line that abuts the residential neighborhood and ornamental shrubs and grasses along the south and east property lines along the streets. The proposed landscaping should provide adequate screening of the parking lot for the homes to the west of the site and provide a visual buffer along the street frontages.

Attachment No. 1

The new site lighting plans shows light poles to illuminate the off-street parking lot. These lights are required to be fully shielded to cutoff the light at least the property line.

As part of the process to request a rezoning, the applicant held a neighborhood meeting on November 6, 2014. According to the meeting minutes, nine (9) adjacent property owners were present, along with the applicant and support staff. The meeting minutes state that everyone was generally in favor of the proposal. One meeting attendee had concerns with traffic through the residential neighborhood. Another attendee voiced concerns about the visual impact on the adjacent neighborhood. According to the minutes, both concerns were alleviated once the site plan and landscape was reviewed. (*see attached meeting summary and participant comment sheets*).

It appears that the applicant have taken appropriate measures to address any specific site design issues that could negatively impact the neighborhood. The site is generally compatible with nearby properties.

- 7. CONFORMANCE WITH THE COMPREHENSIVE PLAN:** The rezoning site is shown on the Northwest Future Land Use Map as a Residential Low/Medium designation.

APPLICABLE RLM POLICIES (*IN ITALICS*) OF THE COMPREHENSIVE PLAN INCLUDE:

Residential Low/Medium Density (RLM)

RLM 1: Characteristics

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

RLM 2: Appropriate Density Range

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

RLM 3: Location

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

RLM 4: Variety of Housing Styles

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

The rezoning site has remained vacant since at least 1991, when the original PUD was approved. The site is considered an infill development. Growth Management 9 policy states: *Infill and redevelopment within established areas of the City is generally encouraged where deteriorated or obsolete structures have become detrimental to an area, where new uses can be accommodated on vacant properties, and in areas that have been specifically identified for redevelopment. Projects may range in size from a single residential lot to the redevelopment of multiple contiguous blocks within a neighborhood or commercial area. Regardless of its scale, infill and redevelopment shall be designed in a manner that is sensitive to and reflects the character of the surrounding area. Important design considerations include building scale, mass, roof form, height, and orientation, parking location, lot coverage, architectural character, and landscape elements. These design considerations are particularly important when infill or redevelopment occurs within or adjacent to an established residential neighborhood, or when a change in use or intensity would otherwise negatively impact the established character of the surrounding area. For additional policies related to infill and redevelopment, refer to the Land Use Policies below and to Chapter 9, Housing and Neighborhoods (see these sections in the Comprehensive Plan).*

Considering the infill and redevelopment policy and the rezoning site's history and proximity to the Mercy Regional Health Center; the proposed rezoning appears to conform to the policies of the Comprehensive Plan.

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

The site has been vacant since at least 1991. The area has most recently been used for storage of construction materials related to previous improvements to the Mercy Regional Health Center

July 18, 1961 Annexed into the City (Ordinance No. 2216) and zone "A-A,"
Single-Family Residential District.

1970 - 1986	Rezoned to R, Single-Family Residential District
1987 – 1991	R-1, Single-Family Residential District
1991 – Present	College Avenue Medical Center Commercial Planned Unit Development

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 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.

Subject to the conditions of approval, the proposed PUD is consistent with the Zoning Regulations.

10. RELATIVE GAIN TO THE PUBLIC HEALTH, SAFETY AND WELFARE THAT DENIAL OF THE REQUEST WOULD ACCOMPLISH, COMPARED WITH THE HARDSHIP IMPOSED UPON THE INDIVIDUAL OWNER:

There appears to be no gain to the public that denial would accomplish. Public utilities and fire and emergency service protection can adequately serve the site. Through the use of adequate landscape screen, the proposed PUD should not cause adverse impacts on nearby properties. Denial of the request may be a hardship to the owner.

11. ADEQUACY OF PUBLIC FACILITIES AND SERVICES: Adequate public water, sanitary sewer, streets and pedestrian sidewalks are, or will be, available to serve the development.

12. OTHER APPLICABLE FACTORS: None

13. STAFF COMMENTS AND RECOMMENDATION: City Administration recommends approval of the proposed rezoning of the vacant tract, generally located to the northwest of the intersection of College Avenue and Vaughn Drive from College Avenue Medical Center PUD, Commercial Planned Unit Development, to Mercy Regional Health Center PUD, Commercial Planned Unit Development District; and the proposed amendment to Ordinance No. 7097 and the approved Preliminary Development Plans with the following conditions of approval:

Attachment No. 1

1. The Permitted Uses shall be Hospitals, Outpatient Surgical Center, and Medical Offices.
2. 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.
3. All landscaping and irrigation shall be maintained in good condition.
4. Light poles shall be provided as described in the application documents. Exterior building lighting shall be provided as proposed and be of a cut-off design, so as to not cast direct light or glare onto public streets or adjacent property.
5. Exempt signage shall be permitted as described in Article VI, Section 6-102(A)(2) (a),(b),(c),(e),(g),(h),(i),(j),(l)and (m). Temporary sales aids, banners and portable signs, as described in Article VI, Signs, of the Manhattan Zoning Regulations, shall be prohibited.

ALTERNATIVES:

1. Recommend approval of the proposed rezoning of the vacant tract, generally located to the northwest of the intersection of College Avenue and Vaughn Drive from College Avenue Medical Center PUD, Commercial Planned Unit Development, to Mercy Regional Health Center PUD, Commercial Planned Unit Development District, and amending Ordinance No. 7097 and the approved Preliminary Development Plan of the Mercy Regional Health Center PUD stating the basis for such recommendation, with the five (5) conditions listed in the Staff Report.
2. Recommend approval of the proposed rezoning of the vacant tract, generally located to the northwest of the intersection of College Avenue and Vaughn Drive from College Avenue Medical Center PUD, Commercial Planned Unit Development, to Mercy Regional Health Center PUD, Commercial Planned Unit Development District, and amending Ordinance No. 7097 and the approved Preliminary Development Plan of the Mercy Regional Health Center PUD, and modify the conditions, and any other portions of the proposed PUD, to meet the needs of the community as perceived by the Manhattan Urban Area Planning Board, stating the basis for such recommendation, and indicating the conditions of approval.
3. Recommend denial of the proposed rezoning, stating the specific reasons for denial.
4. Table the proposed rezoning to a specific date, for specifically stated reasons.

POSSIBLE MOTION:

The Manhattan Urban Area Planning Board recommends approval of the proposed rezoning of the vacant tract, generally located to the northwest of the intersection of College Avenue and Vaughn Drive from College Avenue Medical Center PUD, Commercial Planned Unit Development, to Mercy Regional Health Center PUD, Commercial Planned Unit Development District, and amending Ordinance No. 7097 and the approved Preliminary Development Plan of the Mercy Regional Health Center PUD, based on the findings in the staff report, with the five (5) conditions recommended by City Administration.

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

DATE: December 24, 2014

15001 }SR}MercyHealthCenterPUD}PUD_PUD.docx



INTER-OFFICE MEMORANDUM

DATE: December 15, 2014

TO: Manhattan Urban Area Planning Board

MEETING DATE: January 5, 2015

FROM: Chad Bunger, AICP, CFM, Senior Planner

RE: Amend Manhattan Zoning Regulations Revising Article X – Floodplain Regulations, In Its Entirety, Including Adoption Of The Update To The Riley County Flood Insurance Study And Flood Insurance Rate Maps

BACKGROUND

FEMA FLOOD INSURANCE RATE MAPS

THE CITY OF MANHATTAN HAS BEEN PARTICIPATING IN THE NATIONAL FLOOD INSURANCE PROGRAM (NFIP) SINCE 1982. AS SUCH, THE CITY MUST ADOPT AND MAINTAIN A MINIMUM SET OF FLOODPLAIN REGULATIONS THAT REFERENCE THE FLOOD INSURANCE STUDY (FIS) AND FLOOD INSURANCE RATE MAPS (FIRMS) IN EFFECT FOR THE COMMUNITY AND ESTABLISH DEVELOPMENT STANDARDS FOR PROPERTIES AND EXISTING STRUCTURES IN THE MAPPED FLOODPLAINS. BY PARTICIPATING IN THE NFIP AND ADOPTING FEMA APPROVED FLOODPLAIN REGULATIONS, THE COMMUNITY IS ELIGIBLE FOR FLOOD INSURANCE AND DISASTER ASSISTANCE. IF THE CITY DID NOT PARTICIPATE IN THE NFIP, PROPERTY OWNERS WITH STRUCTURES IN THE 1% ANNUAL CHANCE FLOODPLAIN (COMMONLY REFERRED TO AS THE 100-YEAR FLOODPLAIN) WOULD NOT BE ABLE TO RECEIVE FEDERAL FLOOD INSURANCE AND THE CITY WOULD NOT BE ELIGIBLE FOR SOME FEDERAL FINANCIAL ASSISTANCE PROGRAMS FOLLOWING DISASTERS.

IN 1982, THE FIRST SET OF FIRMS AND THE FIS WERE CREATED FOR THE CITY BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA). IN 1984, THE CITY ADOPTED ARTICLE X, FLOODPLAIN REGULATIONS, OF THE MANHATTAN ZONING REGULATIONS, INCORPORATING THE NEW FIRMS AND FIS REPORT AND ESTABLISHING MINIMUM STANDARDS FOR NEW AND EXISTING DEVELOPMENTS IN MAPPED FLOODPLAINS. SINCE THEN, ARTICLE X, FLOODPLAIN REGULATIONS HAVE BEEN AMENDED SEVERAL TIMES TO INCORPORATE NEW REQUIREMENTS BY THE STATE OF KANSAS AND FEMA AND TO REFLECT UPDATES TO THE FIS OR FIRMS. THE LAST AMENDMENT THAT WAS ADOPTED WAS IN 2010 FOR NEW FIRMS THAT INCORPORATED NEWER GROUND ELEVATION FOR THE EAST SIDE OF THE CITY. THESE FIRMS WENT INTO EFFECT ON JULY 6, 2010.

FLOOD INSURANCE STUDY AND FLOOD INSURANCE RATE MAP UPDATES

RECENTLY, FEMA AND THE KANSAS DEPARTMENT OF AGRICULTURE, DIVISION OF WATER RESOURCES (DWR) COMPLETED AN UPDATE OF THE FIS AND FIRMS FOR ALL OF RILEY COUNTY AND PORTIONS OF POTTAWATOMIE COUNTY. THE FIRM PANELS UPDATED IN POTTAWATOMIE COUNTY ARE FOR LAND ON THE EAST SIDE OF TUTTLE CREEK RESERVOIR TO THE CONFLUENCE OF THE KANSAS RIVER. TO MAINTAIN IN THE NFIP, THE NEW FIS AND CORRESPONDING FIRM PANELS MUST BE ADOPTED BY THE CITY COMMISSION ON OR BEFORE MARCH 16, 2015. FAILURE TO DO SO WOULD JEOPARDIZE MANHATTAN'S PARTICIPATION IN THE PROGRAM, RISKING A SUBSTANTIAL NUMBER OF HOME AND BUSINESS OWNERS ACCESS TO FLOOD INSURANCE.

THE FIRM PANELS THAT IMPACT PROPERTY IN THE CITY ARE 0334, 0335, 0340, 0342, 0343, 0344, 0351, 0352, 0353, 0354, 0346, 0358, 0359, 0361, 0362, 0364, 0366, 0427, AND 0431. ALL OTHER MAP PANELS OF UPDATED FLOOD STUDY RELATE TO RURAL AREAS IN POTTAWATOMIE COUNTY AND RILEY COUNTY.

HIGHER STANDARD FLOODPLAIN REGULATIONS

AS PREVIOUSLY DESCRIBED, ARTICLE X OF THE MANHATTAN'S ZONING REGULATIONS ADDRESS DEVELOPMENT USE LIMITATIONS FOR PUBLIC AND PRIVATE PROPERTY WITHIN THE CITY LOCATED IN FLOODPLAINS. THERE ARE TWO (2) SEPARATE OVERLAY DISTRICTS ESTABLISHED IN THE FLOODPLAIN REGULATIONS, THE FLOODWAY OVERLAY DISTRICT (FW), AND THE FLOODWAY FRINGE OVERLAY DISTRICT (FF). THE FW DISTRICT REGULATES ALL USES, STRUCTURES AND OTHER

DEVELOPMENT IN THE FEMA MAPPED FLOODWAY. THE FF DISTRICT REGULATES USES, STRUCTURES AND OTHER DEVELOPMENTS ADJACENT TO THE FEMA FLOODWAY. BY IN LARGE, THE CURRENT REGULATIONS IN ARTICLE X REFLECT THE MINIMUM STANDARDS ESTABLISHED BY FEMA AND DWR TO QUALIFY FOR THE NFIP. INDIVIDUAL COMMUNITIES ARE ALLOWED TO ESTABLISH HIGHER FLOODPLAIN REGULATIONS, IF DESIRED.

FOLLOWING FLOOD EVENTS IN 2010 AND 2011, CITIZEN STAKEHOLDERS, INCLUDING VICTIMS OF THE RECENT FLOODS, AND CITY ADMINISTRATION ALONG WITH RILEY COUNTY OFFICIALS BEGAN RESEARCHING HIGHER STANDARD FLOODPLAIN REGULATIONS THAT WOULD BETTER PROTECT NEW DEVELOPMENTS, AS WELL AS, LESSEN FLOOD RISKS FOR EXISTING DEVELOPMENTS. AS A STARTING POINT, LOCAL OFFICIALS AND COMMUNITY STAKEHOLDERS DECIDED UPON CREATING A “COMMUNITY FUTURE CONDITIONS” FLOODPLAIN MAP TO PREDICT WHERE AND HOW DEEP A FLOOD MAY BE IN THE FUTURE. THE COMMUNITY FUTURE CONDITION FLOODPLAIN WAS CREATED USING THE MANHATTAN URBAN AREA COMPREHENSIVE PLAN’S FUTURE LAND USE MAP, BASED ON THE ASSUMPTION THAT ALL FUTURE GROWTH AREAS HAD ALREADY BEEN FULLY DEVELOPED FOR CALCULATING STORMWATER RUNOFF VALUES USED IN FEMA’S FLOOD PREDICTION MODEL FOR A 1% ANNUAL CHANCE FLOOD. THE STANDARD FEMA FLOOD MODEL USES VALUES FOR EXISTING DEVELOPMENTS AT THE TIME THE FLOOD MODEL WAS CREATED (APPROXIMATELY 2012). THE COMMUNITY FUTURE CONDITIONS FLOODPLAIN WAS DEVELOPED ALONG WILDCAT CREEK AND ITS TRIBUTARIES, UP TO AN AREA NEAR KEATS; AND THE MARLATT DITCH WATERSHED. BOTH OF THESE AREAS WERE IDENTIFIED TO BE AREAS WITH HIGH GROWTH POTENTIAL, WHICH NEEDED ADDITIONAL INFORMATION TO PROTECT NEW AND EXISTING DEVELOPMENTS FROM FLOODING. THE FEMA FLOODWAY AND 1% ANNUAL CHANCE FLOODPLAIN (ZONE A, AE, AO & AH) IS SHOWN ON THE FIRMS AS REQUIRED BY FEMA AND THE NFIP. WHERE PRESENT, THE COMMUNITY FUTURE CONDITIONS FLOODPLAIN IS SHOWN ON THE FIRMS AS ZONE X (FUTURE BASE FLOOD) AND GENERALLY REPLACES THE 0.2% ANNUAL CHANCE FLOODPLAIN (SHADED ZONE X). WHERE THE ZONE X (FUTURE BASE FLOOD) IS NOT PRESENT, THE FEMA 0.2% ANNUAL CHANCE FLOODPLAIN IS SHOWN.

COMMUNITY SPECIAL FLOOD HAZARD AREA

The basis for the higher standard Floodplain Regulations is to use the Community Special Flood Hazard Area (CSFHA) to define the area of the floodplain boundary. The definition of the CSFHA is “the land subject to a one (1%) percent or greater chance of flooding in any given year from a Community Base Flood. It includes the FEMA Floodway, Zones A, AE, AH, AO and Zone X (Future Base Flood).” The proposed regulations would include the CSFHA into the FF District.

Flood Protection Elevation

The other element of the higher standard Floodplain Regulations is the Flood Protection Elevation, which regulates what the minimum elevation that a new structure, or improvements or repairs to existing structure, need to be built to. The Flood Protection Elevation is defined as:

The elevation to which all structures located within the Community Special Flood Hazard Area or FEMA Special Flood Hazard Area must be elevated or floodproofed, if non-residential. Where the Community Base Flood Elevation is provided, the elevation shall be that elevation plus one (1) foot of freeboard. Where the Community Base Flood Elevation is not provided, the Flood Protection Elevation shall be the FEMA Base Flood Elevation plus two (2) foot of freeboard.

IN ADDITION TO THESE TWO KEY ELEMENTS TO THE HIGHER STANDARD FLOODPLAIN REGULATIONS, SEVERAL OTHER STANDARDS ARE PROPOSED. THEY INCLUDE: CUMULATIVE SUBSTANTIAL IMPROVEMENT THRESHOLDS, CUMULATIVE SUBSTANTIAL DAMAGE THRESHOLDS, COMPENSATORY STORAGE, AND DRY-LAND ACCESS REQUIREMENTS FOR NEW DEVELOPMENTS. THESE ELEMENTS GENERALLY COINCIDE WITH THE COMMUNITY SPECIAL FLOOD HAZARD AREA AND FLOOD PROTECTION ELEVATION TO ENSURE NEW AND EXISTING DEVELOPMENTS ARE SAFE FROM FLOODS NOW AND IN THE FUTURE, AS WELL AS NOT ADVERSELY IMPACTING ADJACENT PROPERTIES AND STRUCTURES.

CUMULATIVE SUBSTANTIAL IMPROVEMENT

THE MINIMUM NFIP REQUIREMENT IS THAT IF THE COST TO IMPROVE AN EXISTING STRUCTURE IN A FLOODPLAIN EQUALS OR EXCEEDS FIFTY PERCENT (50%) OF THE FAIR MARKET VALUE OF THE STRUCTURE, THE IMPROVEMENT IS CONSIDERED A “SUBSTANTIAL IMPROVEMENT” AND THE ENTIRE STRUCTURE MUST BE BROUGHT INTO COMPLIANCE WITH THE CURRENT REGULATIONS. THE

PROPOSED HIGHER STANDARDS FLOODPLAIN REGULATIONS MAINTAIN THIS REQUIREMENT, AND ADD THE REQUIREMENT THAT WHEN THE TOTAL OF ALL ADDITIONS OR EXPANSIONS TO THE EXISTING STRUCTURE (STARTING THE DAY THE REGULATIONS ARE ADOPTED), EQUALS OR EXCEEDS 50% OF THE FAIR MARKET VALUE OF THE STRUCTURE, THE IMPROVEMENTS ARE CONSIDERED A SUBSTANTIAL IMPROVEMENT.

THE INTENT OF THIS HIGH STANDARD REGULATION IS TO ADDRESS THE POTENTIAL OF A PROPERTY OWNER MAKING SMALL, INCREMENTAL ADDITIONS OR EXPANSIONS TO THEIR HOME OR BUSINESS WITHOUT BRINGING THE STRUCTURE INTO CONFORMANCE WITH THE FLOODPLAIN REGULATIONS.

CUMULATIVE SUBSTANTIAL DAMAGE

THE MINIMUM NFIP REQUIREMENT FOR SUBSTANTIAL DAMAGE IS SIMILAR TO THE SUBSTANTIAL IMPROVEMENT REQUIREMENT, IN THAT THE COST OF REPAIR TO ANY TYPE OF DAMAGE TO A STRUCTURE IN THE FLOODPLAIN THAT EQUALS OR EXCEEDS 50% OF THE FAIR MARKET VALUE, IS SUBSTANTIAL AND MUST CONFORM TO THE FLOODPLAIN REGULATIONS.

THE PROPOSED HIGHER STANDARD FLOODPLAIN REGULATIONS FOR SUBSTANTIAL DAMAGES ALSO STATES THAT FLOOD-RELATED DAMAGE TO AN EXISTING STRUCTURE IN THE CSFHA ON TWO (2) SEPARATE OCCASIONS DURING A TEN (10) YEAR PERIOD, WHERE THE AVERAGE OF EACH EVENT EQUALS OR EXCEEDS TWENTY-FIVE (25%) PERCENT OF THE STRUCTURE'S FAIR MARKET VALUE WILL BE A CONSIDERED SUBSTANTIAL DAMAGE. THE PURPOSE OF THIS HIGHER STANDARD REGULATION IS TO ENSURE THAT NONCONFORMING STRUCTURES THAT RECEIVE REPETITIVE DAMAGE FROM FLOODS ARE REQUIRED TO COME INTO CONFORMANCE, GENERALLY BY ELEVATING THE STRUCTURE.

COMPENSATORY STORAGE

A REPEATED CONCERN FROM THE 2010 AND 2011 FLOOD EVENTS WAS WHAT IMPACT NEW DEVELOPMENT WAS HAVING ON THE FLOODPLAIN AND ADJACENT, EXISTING PROPERTIES. FEMA'S MINIMUM STANDARD FLOODPLAIN REGULATIONS DO NOT FACTOR IN CUMULATIVE FILL OR DEVELOPMENT IN THE FLOODPLAIN TO DETERMINE IMPACT ON ADJACENT PROPERTIES. TO ADDRESS THIS CONCERN, A NEW

CAPACITY OF FLOOD WATER THAT COULD BE LOST FROM ADDING FILL OR OTHER DEVELOPMENT IN THE COMMUNITY SPECIAL FLOOD HAZARD AREA. THE COMPENSATORY STORAGE REQUIREMENT IS:

“Any development, including fill, new construction, substantial improvement or other encroachment within the Community Special Flood Hazard Area shall not result in an increase in the FEMA 1% Annual Chance Flood elevation that is greater than one-tenth of a foot (0.10’), unless compensatory storage is provided. The rise of the flood elevation shall be documented and certified by a registered professional engineer.”

If a rise greater than a tenth of a foot (0.10’) is caused by the fill or other development, compensatory storage is required at a ratio of at least 1.2 times the volume of floodplain storage that was lost or displaced in a riverine floodplain (Zones A, & AE), and at least 1.0 times the volume of floodplain storage lost or displaced in a non-riverine floodplain (Zones AO & AH). Use limitation and application requirements are outlined in the regulations if Compensatory Storage is required.

OTHER REGULATIONS, SUCH AS DRY-LAND ACCESS AND CRITICAL FACILITY STORAGE REQUIREMENTS HAVE ALSO BEEN PROPOSED. THESE ARE RELATIVELY MINOR REQUIREMENTS FOR UNIQUE CONDITIONS.

AS REQUIRED BY THE STATE OF KANSAS AND THE NFIP, THE STATE’S CHIEF ENGINEER, DIVISION OF WATER RESOURCES, KANSAS DEPARTMENT OF AGRICULTURE HAS REVIEWED THE PROPOSED REGULATIONS AND APPROVED THEM ON DECEMBER 23, 2014 (*SEE ATTACHED LETTER*). AS PREVIOUSLY DESCRIBED, THE PROPOSED FLOODPLAIN REGULATIONS (*ATTACHED*) ARE A COMPLETE REVISION OF ARTICLE X.

AMENDMENTS TO THE TEXT OF THE ZONING REGULATIONS

WHEN A PROPOSED AMENDMENT RESULTS IN A CHANGE TO THE TEXT OF THE ZONING REGULATIONS, THE REPORT FROM THE PLANNING STAFF SHALL CONTAIN A STATEMENT AS TO THE NATURE AND EFFECT OF THE PROPOSED AMENDMENT, AND DETERMINATIONS AS TO THE FOLLOWING:

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

THE INTENT OF THE MANHATTAN ZONING REGULATIONS IS TO PROTECT THE PUBLIC HEALTH, SAFETY AND GENERAL WELFARE AND TO PROTECT PROPERTY VALUES. ARTICLE X IS DESIGNED TO promote the public health, safety and general welfare and to minimize flood losses resulting from inundation by 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 or leasing 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.

Through the various provisions and use limitations for development in the Community Special Flood Hazard Area, FEMA Special Flood Hazard Area and the Floodway, the intents and purposes stated above are addressed. The proposed amendments are consistent with the intent and purpose of the Manhattan Zoning Regulations and are **DRAFTED TO ACCOMMODATE DEVELOPMENT THAT MINIMIZES LOSSES FROM PERIODIC FLOODS.**

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

THE PROPOSED AMENDMENT TO ARTICLE X WOULD APPLY TO ALL PROPERTY IN MANHATTAN THAT IS LOCATED WITHIN THE COMMUNITY SPECIAL FLOOD HAZARD AREA, FEMA Special Flood Hazard Area and the Floodway, as shown on the Flood Insurance Rate Maps, dated March 16, 2015.

CITY ADMINISTRATION CAREFULLY CONSIDERED THE IMPACTS THAT THE PROPOSED AMENDMENTS MAY HAVE ON RESIDENTIAL, COMMERCIAL AND INDUSTRIAL AREAS AROUND THE CITY. THE PROPOSED REGULATIONS ALLOW FOR EXISTING DEVELOPMENT TO BE MAINTAINED AS THEY ARE, OR IN LIMITED CASES, IMPROVED UPON OR REPAIRED FROM DAMAGES. IF A SUBSTANTIAL IMPROVEMENT OR REPAIR TO SUBSTANTIAL DAMAGE IS NEEDED, THE EXISTING STRUCTURES WILL BE REQUIRED TO CONFORM TO THE HIGHER STANDARD FLOODPLAIN REGULATIONS, TO LESSEN THE RISK OF FLOODING.

NEW DEVELOPMENT IS ALLOWED IN THE COMMUNITY SPECIAL FLOOD HAZARD AREAS, FOLLOWING THE USE LIMITATIONS DESCRIBED IN ARTICLE X, TO ENSURE THAT IT WILL NOT BE INUNDATED BY FLOODS NOW AND/OR IN THE FUTURE. THE PROPOSED AMENDMENT TO ARTICLE X ALSO PROTECTS EXISTING STRUCTURES AND OTHER DEVELOPMENTS BY REQUIRING COMPENSATORY STORAGE, WHICH PROTECTS THE FLOOD WATER STORAGE BENEFITS THAT FLOODPLAINS NATURALLY PROVIDE.

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

AREAS SHOWN IN THE COMMUNITY SPECIAL FLOOD HAZARD AREA OR THE FEMA SPECIAL FLOOD HAZARD AREAS, AS SHOWN ON THE FLOOD INSURANCE RATE MAPS, WILL BE DIRECTLY AFFECTED BY THE PROPOSED AMENDMENTS TO ARTICLE X. THE PURPOSE IS TO LESSEN THE RISK OF FLOODING FOR EVENTS PREDICTED BY THE FEMA FLOOD MODEL, AS WELL AS THE COMMUNITY'S FLOOD MODEL.

THERE ARE INCREASED COSTS ASSOCIATED WITH THESE HIGHER STANDARDS FOR NEW CONSTRUCTION, SUBSTANTIAL IMPROVEMENTS, AND FLOOD DAMAGE. HOWEVER, CITY ADMINISTRATION BELIEVES THAT THESE COSTS ARE OUTWEIGHED BY THE DECREASE IN FLOOD RISK AND THE LOWER FLOOD INSURANCE PREMIUMS THAT WILL RESULT FROM HAVING A STRUCTURE BETTER PROTECTED FROM FLOODING. IN ADDITION, CITY ADMINISTRATION HAS BEEN TAKING PROACTIVE STEPS TO REDUCE FLOOD INSURANCE COSTS FOR ALL PROPERTY LOCATED IN THE CITY, THROUGH ITS ACTIVITIES AND PARTICIPATION IN THE COMMUNITY RATING SYSTEM (CRS), WHICH HAS RESULTED IN PREMIUM REDUCTION OF TEN (10%) PERCENT. THE

CITY IS UNDERTAKING ADDITIONAL ACTIVITIES TO REACH A PREMIUM REDUCTION OF 15%.

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

THE PROPOSED AMENDMENT TO ARTICLE X WAS MADE NECESSARY FROM THE PUBLIC'S CONCERN FOR REPETITIVE FLOODING ON WILDCAT CREEK IN 2010 AND 2011. FOLLOWING THESE FLOOD EVENTS, THE COMMUNITY CALLED FOR CHANGES IN THE FLOODPLAIN REGULATIONS. THERE WAS CONCERN THAT THE MINIMUM FEMA STANDARDS DID NOT ADEQUATELY ADDRESS THE GROWTH THAT HAS OCCURRED IN MANHATTAN, NOR ADEQUATELY PROTECT EXISTING STRUCTURES FROM NATURAL AND MAN-MADE CHANGES TO THE FLOODPLAIN. THE CSFHA AND THE RELATED HIGHER STANDARD FLOODPLAIN REGULATIONS ARE A DIRECT RESPONSE TO THESE CONCERNS.

THE PROPOSED AMENDMENTS ARE ALSO NECESSARY TO COMPLY WITH FEMA AND THE STATE'S REQUIREMENT THAT THE NEW FIS AND FIRMS BE ADOPTED, BY REFERENCE, IN THE FLOODPLAIN REGULATIONS. THE UPDATED FIS AND FIRMS MUST BE ADOPTED BY MARCH 16, 2015 TO REMAIN IN GOOD STANDING IN NFIP.

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

THE ZONING REGULATIONS HELP IMPLEMENT THE COMPREHENSIVE PLAN AND ITS GOALS, OBJECTIVES, AND POLICIES. THE COMPREHENSIVE PLAN IS MORE GENERAL IN NATURE AND DOES NOT SPECIFY ADMINISTRATIVE SITE PLANNING AND CONSTRUCTION DETAILS SUCH AS THOSE ADDRESSED BY THE PROPOSED AMENDMENTS. THE WILDCAT CREEK FLOODPLAIN MANAGEMENT PLAN WAS CREATED AND ADOPTED AS A PART OF THE COMPREHENSIVE PLAN IN 2013, AS A RESULT OF, AND TO ADDRESS FLOODING CONCERNS IN THE WILDCAT CREEK WATERSHED. THIS PLAN DOES PROVIDE MORE DETAILED RECOMMENDATIONS AND ACTIONS THAT THE COMMUNITY SHOULD TAKE TO REDUCE FLOOD

RISK. THE PROPOSED FLOODPLAIN REGULATIONS ENSURE THAT THE GENERAL POLICIES IN THE COMPREHENSIVE PLAN, INCLUDING THE MORE SPECIFIC WILDCAT CREEK FLOODPLAIN MANAGEMENT PLAN, ARE IMPLEMENTED CONSISTENT WITH LEGAL REQUIREMENTS.

ALTERNATIVES

IT APPEARS THE MUAPB HAS THE FOLLOWING ALTERNATIVES CONCERNING THE ISSUE AT HAND. THE BOARD MAY:

- 1. RECOMMEND APPROVAL OF THE PROPOSED AMENDMENTS OF ARTICLE X, FLOODPLAIN REGULATIONS OF THE MANHATTAN ZONING REGULATIONS, TO THE CITY COMMISSION.**
- 2. RECOMMEND DENIAL OF THE PROPOSED AMENDMENTS TO THE CITY COMMISSION.**
- 3. MODIFY THE PROPOSED AMENDMENTS AND FORWARD THE MODIFICATIONS, ALONG WITH AN EXPLANATION, TO THE CITY COMMISSION.**
- 4. TABLE THE PUBLIC HEARING TO A SPECIFIC DATE, AND PROVIDE FURTHER DIRECTION TO CITY ADMINISTRATION.**

RECOMMENDATION

CITY ADMINISTRATION RECOMMENDS APPROVAL OF THE PROPOSED AMENDMENT TO THE MANHATTAN ZONING REGULATIONS TO COMPLETELY REVISE ARTICLE X, FLOODPLAIN REGULATIONS OF THE MANHATTAN ZONING REGULATIONS, BASED ON THE FINDINGS IN THE STAFF MEMORANDUM.

POSSIBLE MOTION

THE MANHATTAN URBAN AREA PLANNING BOARD RECOMMENDS APPROVAL OF THE PROPOSED AMENDMENTS TO THE MANHATTAN ZONING REGULATIONS TO COMPLETELY REVISE ARTICLE X, FLOODPLAIN REGULATIONS, BASED ON THE FINDINGS IN THE STAFF MEMORANDUM.

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