

**MINUTES**  
**MANHATTAN URBAN AREA PLANNING BOARD**  
**City Commission Room, City Hall**  
**1101 Poyntz Avenue**  
**January 5, 2015**  
**7:00 p.m.**

**MEMBERS PRESENT:** Phil Anderson, Chairperson; John Ball Vice-Chairperson; Jerry Reynard; Ron Hageman; Gary Stith; and Linda Morse.

**MEMBERS ABSENT:** Neil Parikh

**STAFF PRESENT:** Eric Cattell, Assistant Director for Planning; Chad Bunger, Senior Planner; Chase Johnson, Planner; Lance Evans, Senior Planner; Ben Chmiel, Planner; Rob Ott, Director of Public Works; and Brian Johnson, City Engineer.

**OPEN PUBLIC COMMENTS**

No one spoke.

**CONSENT AGENDA**

**APPROVE THE MINUTES OF THE DECEMBER 15, 2014, MANHATTAN URBAN AREA PLANNING BOARD MEETING.**

**APPROVE THE FINAL PLAT OF MANHATTAN CROSSING PLANNED UNIT DEVELOPMENT, UNIT TWO, GENERALLY LOCATED 450 FEET SOUTH OF THE INTERSECTION OF BLUEMONT AVENUE AND TUTTLE CREEK BOULEVARD FRONTAGE ROAD, TO THE EAST OF THE FRONTAGE ROAD. (APPLICANT/OWNERS: PROJECT MANHATTAN, LLC)**

**APPROVE THE FINAL DEVELOPMENT PLAN OF LOT 1, 2 & 3, ABBOTT'S LANDING COMMERCIAL PLANNED UNIT DEVELOPMENT, AND APPROVE THE FINAL PLAT OF ABBOTT'S LANDING COMMERCIAL PLANNED UNIT DEVELOPMENT, GENERALLY LOCATED NORTHEAST OF THE INTERSECTION OF HAYES DRIVE AND MCCALL ROAD. (APPLICANT: RENAISSANCE INFRASTRUCTURE CONSULTING (RCI) - CHIP CORCORAN, OWNERS: MCCALL INC. - TOM ABBOTT, PRESIDENT)**

Stith moved that the Board approve the Consent Agenda, indicating he would be abstaining from approving the minutes since he was not present at that meeting. Ball seconded the motion, which passed on a vote of 5-0-1 with Stith abstaining on the Minutes, and on a vote of 6-0 on the remainder of the Consent Agenda.

**GENERAL AGENDA**

**REMOVE FROM THE TABLE AND CONDUCT THE PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE MANHATTAN ZONING REGULATIONS FOR A COMPLETE REVISION OF ARTICLE X, FLOODPLAIN REGULATIONS**

Ball moved that the Board remove the item from the table and conduct a public hearing. Stith seconded the motion which passed on a vote of 6-0.

Bunger presented the staff report with the recommendation of approval.

Ball asked how the .10' of the FEMA Base Flood Elevation was determined.

Bunger explained that the measure was determined by studying other communities and what was considered a tolerable measure by city engineering staff.

Ball expressed concern over the cumulative impact of multiple projects within the city.

Bunger explained that the measure was determined because it is not too strict and still allows development, provided compensatory storage is provided.

Anderson asked who determines the 50% fair market value in relation to substantial improvement and/or destruction of a structure and if it could be appealed.

Bunger explained that the city generally uses the value based on the county appraiser's data to determine the assessed value of the structure, or the local code official can also assess the value of the structure. If an owner disagrees with the value, they can get their own private appraiser.

Anderson asked if Bunger could explain the 1% flood risk.

Bunger explained that the 1% flood risk, also known as a 100-year flood event, is the risk of a flood causing significant impact and damage having a 1% change of occurring every year. However, 100-year flood event can occur more than once a year and is based on statistics and scientific models.

Stith asked if the Planning Board has a role in approving the flood maps by March 16, 2015, or if it was strictly the responsibility of the City Commission.

Bunger explained that the Planning Board's role is to amend the Article X, Floodplain Regulations of the Zoning Regulations to adopt the new FEMA maps. The Planning Board's role is not to review the validity of the maps, which already have gone through extensive review by the local and state agencies, as well as the formal 90 day review and appeal period.

Hageman expressed hesitation over adopting the “future condition” community floodplain maps because it may cause significant added costs to development. He said with new erosion controls and construction methods, increased future flooding should not be a significant issue. He asked if the Board was voting on just the minimum FEMA regulations, or the entire higher standard regulations as proposed by the city.

Bunger said the Board was voting on the full higher standard floodplain regulations, as proposed, along with adoption of the new FEMA maps. If the Board so determines, it could vote to modify the proposed floodplain regulations, however the new FEMA floodplain maps must be adopted by March 16<sup>th</sup> to avoid being put on probation with the National Flood Insurance Program.

Hageman was concerned about the average 3.75 feet of potential fill required by the proposed regulations.

Ball stated that the compensatory storage provision needs to be discussed further because one project involving fill should never impact other areas. He suggested the provision should be stricter than the .10’ rise and not allow any rise. The model needs to consider long-term changes and impacts, preferably 20-30 years into the future. Ball said that some of the proposed regulations exceed the minimum FEMA guidelines. The proposed regulations are generally good, but may be too high in some cases and cause unknown impacts.

Bunger explained that the city has significant flooding problems and that history has shown that the minimum FEMA regulations do not work for Manhattan. Additional regulations are needed to adequately protect existing and future property owners because of future changes to flood plains as the community continues to grow and develop.

Ball said a balance is needed and that the safety aspects of the regulations to keep people safe are necessary. He asked what the cost is to the city if a house is flooded and why the city wants to set higher standards if the cost is primarily on the property owner.

Bunger said that emergency response and rescue efforts are direct costs to the city and the additional standards are to keep people safer and their properties above flood levels. Building in a flood zone increases the risk of flooding which can cause significant costs in damage. The secondary impact is that flood insurance can be very cost burdensome to families if maps continually change. The proposed regulations will help ensure that properties are built to standards that consider future changes in the floodplain without having to be continually altered and keep future costs down for property owners. Bunger indicated that if a neighborhood is financially and economically struggling as a result of repetitive flooding, it can have other direct costs to the city.

Morse stated that existing and new residents expect a level of safety and may not know they are moving into a flood zone. Flooding can significantly impact disadvantaged families, and developers should be held accountable for building homes that meet standards that will protect families from future flood conditions. Morse agreed that FEMA’s standards are minimum and do not adequately protect properties in Manhattan because of local conditions.

Bunger stated that the proposed community standards were carefully written to create a balance without being too strict.

Hageman said that the old flood model is not as accurate as the new FEMA maps that are based on better technology. He thought the 3.75' requirement seems too excessive.

Bunger explained that the State of Kansas requires the lowest enclosed floor to be one (1) foot above FEMA's base flood elevation and that the existing homes impacted by the 1993 flood were built before flood plain regulations were created. The future condition model is designed to anticipate future development in Manhattan which will increase runoff and may affect flooding.

Rob Ott, Director of Public Works, elaborated that many members of the community expressed concern about FEMA's minimum requirements and believed them to be too low, which prompted the city to incorporate secondary standards into the proposed regulations. Another difference between the FEMA model and the future conditions model is the antecedent moisture content in which FEMA's model uses a level two (2) which in the case of a flood event, the soil is, in theory, unsaturated and absorbs more water which helps decrease flood levels. The city chose to adopt a level three (3) antecedent moisture content for the model, which takes into account the storm events that Manhattan has experienced when the soil has been partially saturated before a flood event and therefore does not absorb as much water as unsaturated soil would.

Anderson added that a home is typically a homeowner's largest investment and that it is in the city's and homeowners' best interest to protect properties in floodplains. If a home is significantly damaged in a flood event, it can negatively affect the value of the city and tax value of the land.

Ott explained that the proposed regulations are a balance and must take into account future conditions.

Hageman reiterated his concern over the 3.75' requirement.

Ott and Bunger explained that the 3.75 feet is an average across the board, when comparing the FEMA base flood elevation and the future condition flood elevation, at the deepest part above the 1% flood level. Many areas will require less fill, while others might be more.

Stith asked if very much land area would be affected by the regulations.

Bunger said that not very much land would be affected since there is not much available vacant land to develop in the floodplain.

Ott stated that another challenge has been that Kansas State University is not required to follow the city's storm water regulations, which has caused runoff issues and that K-State has a lot of new development planned for in the future.

Morse stated that Kansas State University has large growth plans that will affect drainage into the Blue River which will cause greater drainage and flood concerns.

Anderson opened the public hearing.

Joe Maggio, licensed real estate broker with Remax Realtors and President of the Manhattan Association of Realtors, expressed gratitude to the city for its efforts but wanted to stress to the Board the potential impact on disclosure. Realtors are required to notify potential home buyers that a property is located within a flood zone and will require flood insurance per FEMA requirements. If the ordinance is passed, the seller disclosure statements will have to be amended and include additional questions for home sellers. Maggio expressed concern that the regulations may have ramifications on the value of properties, specifically if a property owner decided to sign a waiver knowing they were in a flood plain but chooses not to raise their property above FEMA standards. He said the waiver and conditions could create red flags and issues with future investors, secondary markets, and property buyers since it is largely unfamiliar and unknown to such entities.

With no one else speaking, Anderson closed the public hearing.

Morse discussed that flood insurance rates will increase which may cause some residents to leave or create a severe cost burden for others.

Ball stated that the compensatory storage should be zero (0) not .1' and that setting a much higher standard than FEMA will create a large segment of nonconforming properties which could cause devaluation. Ball asked if the regulations can be limited to new construction only, to prevent devaluation of existing properties.

Stith stated that applying the regulations to new construction only will not solve the real estate concerns of an existing property because it is still subject to future potential flood risks.

Anderson stated a flood will happen no matter what, and it is the Board's decision to either deal with the issue now, or ignore it till later.

Hageman asked if the FEMA regulations and the future condition community regulations be considered separately.

Ball stated that the issue is a risk-benefit problem and if the additional community regulations will cause cost-benefit issues for property owners.

Bunger elaborated that existing structures in the FEMA Special Flood Hazard Areas may be nonconforming and if those structures are damaged and need rehabilitation/improvements, they must follow the regulations. Homes in the Community Special Flood Hazard Area may also be considered nonconforming and may need to follow the regulations and standards if damaged and repaired. The main difference is that structures within the community special flood hazard area already meet the minimum

FEMA requirements and existing property owners can decide if they wish to raise their structures to the higher standards before a flood causes damage.

In response to the discussion about the average 3.75 feet of elevation, Reynard read from the proposed regulations regarding the Flood Protection Elevation standards for fill and freeboard, which require an elevation of two (2) feet above the base flood elevation in areas where no community base elevation is provided, and one (1) foot of elevation in areas where the community base elevation is provided. Reynard expressed his support for the proposed regulations and standards.

Morse moved that the Manhattan Urban Area Planning Board recommend approval of the proposed amendment to the Manhattan Zoning Regulations to completely revise Article X, Floodplain Regulations, as proposed, based on the findings in the Staff Memorandum.

Reynard seconded the motion which passed on a vote of (5-1) with Ball voting in opposition.

**A PUBLIC HEARING TO CONSIDER AN AMENDMENT TO SECTION 9 (F ZONES (FLOODPLAIN)) OF THE RILEY COUNTY ZONING REGULATIONS.**

Isaac stated Riley County is proposing substantially less changes than what the City of Manhattan is proposing at this time. He said the proposed amendments to the Riley County Floodplain regulations were submitted and approved in draft form by the chief engineer of the Division of Water Resources and the Kansas Department of Agriculture on November 25, 2014 in anticipation of the adoption of the new flood insurance rate maps. Isaac stated, in order to remain in compliance with the National Flood Insurance Program and the State of Kansas, it was necessary to update or include specific language to reflect the revised maps at a minimum. He said minor text or modifications were also made to make the regulations more efficient and less confusing.

Isaac said the regulations as amended will go before the Riley County Planning Board on January 12, 2015 for recommendation and the Board of County Commissioners on January 26, 2015 at 10:45 a.m.

Stith stated for clarification, this is the minimum for Riley County to stay in compliance with FEMA regulations at this point and time.

Isaac replied yes.

Stith said once the City of Manhattan finalizes their floodplain regulations, Riley County might request additional amendments to their floodplain regulations.

Isaac replied absolutely.

Anderson opened and closed the public hearing with no one speaking.

Ball moved to forward a recommendation of approval to the Board of Commissioners of Riley County of the proposed amendments to the Riley County Zoning Regulations as published.

Stith seconded the motion, which passed on a vote of 6-0.

**A PUBLIC HEARING TO CONSIDER THE REZONING OF A 0.95 ACRE TRACT OF LAND FROM THE COLLEGE AVENUE MEDICAL CENTER PUD, COMMERCIAL PLANNED UNIT DEVELOPMENT TO MERCY REGIONAL HEALTH CENTER PUD, COMMERCIAL PLANNED UNIT DEVELOPMENT AND AMEND ORDINANCE NO. 7097 AND THE APPROVED PRELIMINARY DEVELOPMENT PLAN FOR THE MERCY REGIONAL HEALTH CENTER PUD. THE SITE IS GENERALLY LOCATED TO THE NORTHWEST OF THE INTERSECTION OF COLLEGE AVENUE AND VAUGHN DRIVE. (OWNERS/APPLICANT: MERCY REGIONAL HEALTH CENTER, INC. – JOHN BROBERG, SENIOR ADMINISTRATOR).**

Bunger presented the staff report with a recommendation of approval.

Stith asked if the proposed landscaped screening is adequate and meets requirements for other commercial zones adjacent to residential neighborhoods.

Bunger stated that a minimum six (foot) sight obscuring screening is required for commercial properties adjoining residential properties. He said the proposed landscaping has been reviewed by the city forester.

Morse stated that eighty (80) parking spaces will be provided with a 2,500 square foot addition. Morse asked if the 2,500 square foot addition and parking is related to emergency services or if it was just general parking.

Bunger explained that the addition is for emergency services.

Morse stated that if it was for emergency services it could be in use 24 hours a day and could create the need for additional screening.

Anderson opened the public hearing.

Gary Schooley, Landscape Architect with Schwab Eaton representing the applicant, discussed that the additional parking will be for physicians and to open up existing, closer parking to the emergency facilities for use by the public.

Morse asked if additional screening is needed because of the high turnover of emergency related vehicles.

Schooley stated that proposed landscaping is dense vegetation and much of the species are evergreen. At maturity, the landscaping will reach six (6) feet. He said at the neighborhood meeting, residents expressed a preference for the landscaping instead of a sterile fence.

Anderson stated that the neighbors who attended the neighborhood meeting were very satisfied with the proposed landscaped screening.

Anderson closed the public hearing.

Ball moved that Manhattan Urban Area Planning Board 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, based on the findings in the staff report, with the five (5) conditions recommended by City Administration.

Stith seconded the motion which passed on a vote of 6-0.

**A PUBLIC HEARING TO CONSIDER THE CONCURRENT PLAT OF BOICE (SUBDIVISION), A 175-ACRE PARCEL OF LAND, GENERALLY LOCATED APPROXIMATELY 10,000 FEET SOUTH OF PILLSBURY DRIVE, ON THE EAST SIDE OF MCDOWELL CREEK ROAD. (BOICE)**

**A PUBLIC HEARING TO CONSIDER THE REZONING OF A 175-ACRE PARCEL OF LAND, FROM "AG" (AGRICULTURAL DISTRICT) TO "R-PUD" (RESIDENTIAL PLANNED UNIT DEVELOPMENT), GENERALLY LOCATED APPROXIMATELY 10,000 FEET SOUTH OF PILLSBURY DRIVE, ON THE EAST SIDE OF MCDOWELL CREEK ROAD. (BOICE)**

Isaac presented the staff report and recommended approval of the rezoning and concurrent plat.

Morse asked if all the requirements listed by Pat Collins, Riley County Fire Chief have been satisfied.

Isaac said a discussion was held between the Fire Chief and the property owner. Isaac reported that the Applicant agreed that the requirements should be included on the development plan and enforced.

Stith said he has had to arbitrate or mitigate disagreements between property owners that share a driveway.

Isaac said there will not be a shared driveway. He stated there will be two (2) driveways running side by side with the property line in between.

Stith asked if a fence could be put between the two (2) driveways.

Isaac replied yes, but not likely.

Stith stated the drives will be separated by 20 feet.

Isaac clarified that the combination of the two driveways will have a minimum width of 20 feet and that the County doesn't otherwise regulate the width of driveways.

Stith said he isn't concerned about the width but feels there should be a reciprocal easement between the two lots giving access to use of the 20 foot driveway along with a maintenance agreement. He stated he is requesting to add two additional conditions to the request.

Anderson said if the driveway is not maintained and the emergency vehicle can't get through, the problem is with the property owner.

Stith said the County indicates the driveway is to be maintained. He stated if there is an agreement between the two properties on how it will be maintained and the cost share, then you are eliminating a problem that the County would not want to be in the middle of if an emergency vehicle can't get through and someone dies.

Ball stated he was confused and asked if there are two separate driveways or a shared driveway.

Stith said there will be 10 feet on one side of the property line and 10 feet on the other side of the property line. He stated I guess you could put a fence down the middle and that 10 feet will still allow access perhaps, but not sure if emergency vehicles could get through.

Ball agreed there needs to be clarity on the maintenance of the driveway.

Isaac said this could be added to the planned unit development.

Anderson asked how much of a house has to be non-combustible and does that mean a concrete house.

Isaac said that would be a question for the fire chief.

Anderson opened the public hearing.

Todd Thompson stated he is the representative for the Applicant and would answer any questions that the Board may have.

Anderson stated the biggest issue appears to be with the steep driveway and being able to get to the buildable area.

Thompson said years back a utility company cut-in a road which allows access to that area.

Morse asked what type of non-combustible material is being planned to build the building.

Thompson replied concrete and steel.

Anderson closed the public hearing.

Ball moved that the Planning Board forward a recommendation of approval to the Board of Commissioners of Riley County to the rezone an unplatted tract from "AG" (Agricultural District) to "R-PUD" (Residential Planned Unit Development).

Reynard seconded the motion.

Ball accepted the amendment to the motion to add the requirements of a reciprocal easement and maintenance agreement for the driveway.

The motion passed on a vote of 6-0.

Ball moved that the Planning Board approve the Concurrent Plat of Boice, as it has been determined it meets the requirements of the Manhattan Urban Area Subdivision Regulations.

Reynard seconded the motion, which passed on a vote of 6-0.

Isaac announced the Board of Commissioners will hear the request on January 26, 2015 at 9:00 a.m. in the County Commission Chambers. He said this is a PUD and the Final Development Plan will come back to this Board in early February.

#### **REPORTS AND COMMENTS BY BOARD MEMBERS AND STAFF**

Cattell indicated the next meeting on the Manhattan Urban Area Comprehensive Plan update was January 29<sup>th</sup> at 5:30pm in the City Commission Room.

Anderson adjourned the meeting.

Respectfully submitted,

Everett Haynes, Planning Intern, City of Manhattan  
Lisa Daily, Administrative Assistant, Riley County Planning & Development