

MINUTES  
PLANNING COMMISSION SPECIAL MEETING  
MARCH 1, 2011  
5:00 P.M. – COUNCIL CHAMBER

	<u>Name</u>	<u>Attendance</u>
MEMBERS PRESENT:	Bob Bucher	(3-0)
	Jerome Goolsby	(2-1)
	Reba Hebert	(3-0)
	Mark Manville	(2-1)
	Joseph Morrey	(3-0)
	Bruce Taylor	(3-0)
	Steve Wenger	(2-1)
MEMBERS ABSENT:	Ann Fisher	(1-2)
	Jason Park	(1-2)

Quorum Present. Seven members constitute a quorum.

STAFF PRESENT: Mike Kellam, City Planner  
Roger Sparks, City Engineer  
Jennifer Baird, Attorney, Williams & Camp, P.C.

Also in attendance: Ken Reeder, David Christie, Developer  
Sandra Watts, Attorney for Christie Development  
Shannon Martello, Matt Pennington,  
Barbara LaBass

*Call to Order* Chairman Steve Wenger read the regulations adopted by the Planning Commission. He stated that there is a certified copy of Chapters 11, 26, and 31 of the Code of Ordinances available for reference if needed. Meeting was called to order.

**ITEM #1 CHRISTIE DEVELOPMENT ASSOCIATES, LLC by David Christie, agent--** Requesting approval of a 353 Redevelopment Plan and blight study for a redevelopment project known as Cook Crossing located at the northwest corner of Belt Highway and Cook Road including the known addresses of 4200 & 4204 North Belt Highway and a portion of 4302 North Belt Highway on property presently zoned R-1A Single Family Residential District, C-1 Neighborhood Shopping District and C-3 Commercial District and consisting of approximately 12.15 acres.  
**Staff recommendation: Approval**

Mr. Wenger stated that the 13 findings were blocked into four motions for vote. He then called for the staff report.

Mike had nothing to add to staff's report.

Mr. Wenger announced the reopening of the public hearing continued from the February 24, 2011 meeting, asking to hear from those who were in favor of this development.

Sandra Watts, representing Christie Development, discussed the 353 application. Usually, there is a 15 year tax abatement with an additional five year possible. They are requesting 100% for ten years and 50% for a five year period. They are also requesting a self-imposed 1% community improvement tax. A determination has been made that there is existence of blight; it is evident it is blighted. Their development plan complies with the city's master plan. The development consists of 12.15 acres and is a very effective lay-out, completely vacant. There are already adequate public facilities and any increase would be a part of the development, i.e., storm water.

A commercial conventional loan is being obtained. Abatement is necessary for this to move forward.

Ms. Sandra Watts, at this time, introduced David Christie, the developer, Shannon Martello and Matt Pennington.

Mr. Wenger asked if there were any questions at this time. Mr. Taylor asked if this was a "for sure thing". Mr. Christie said yes. The site has been approved and they are waiting for the incentive package to be approved.

Mr. Christie stated that Phase I will contain a national sporting goods retailer. This retailer has approved the site. Aldi will relocate to this location and will add 2.5-3 million dollars of increased sales. There will also be a fast food restaurant on the corner.

Phase II will include a two acre detention basin. He has bought two acres from Ryans to have adequate parking.

Mr. Christie said they will close in late April and are working on a short time line. They need the incentive package to complete 1.1 million dollars worth of public investments to include widening of Cook Road, utility extensions, and storm water detention.

Target and Home Depot requested the sporting goods retailer to come to St. Joseph. Council seems to be on board with the tenant mix. Mr. Christie is asking to partner with the city and obtain incentives; ten million dollars needs to be borrowed.

Mr. Wenger asked Mr. Christie if there was presently a water retention problem with the ravine. Mr. Christie said there are no detention or retention facilities now and Wal-Mart's water runoff comes across there. They are prepared to fix it which will cost approximately \$350,000. Incentives will give them the resources to fix it,

Question was asked how the 1% CID played into the project. Mr. Christie said it would help with retail improvements, to remodel the building with this money; 50,000 feet will

be reused out of the total square footage. Ryans, the retailer Aldi would generate 20-21 million dollars of revenue.

Mr. Morrey asked about liability. It is the best corner left in St. Joseph and the owner will not sell for a loss and has held firm. Mr. Morrey said the criterion is a depressed value. The building is a negative value.

Mr. Christie said the structure was sound so he decided to save it. It has been vacant for ten years and they are wanting to put something back on the tax rolls. Currently, people are driving to Zona Rosa for sporting goods. We are losing 8-10 million dollars in revenue (projected). The seller's price has been inflexible.

Mr. Morrey asked if this property could be developed without tax incentives.

Mr. Christie said they need incentives. Retailers are not building stores. A retailer has come to him asking to come to St. Joseph and this may be available to him because of incentives. It will take a lower occupancy cost to put the property into play; 353 and CID will help.

Mr. Morrey again asked if this property could be developed without incentives.

Mr. Christie said yes, if something like Golden Corral among other smaller pad site type development was put in, but not larger square footage big box development.

Mr. Morrey asked why they were paying more for the land than was being asked.

Mr. Christie said he was paying 2.85 million for the land because that is what the county has it appraised for.

Barbara LaBass, 3901 Bucher Drive, said people were excited about this project. She wanted to know what the cost per square foot to remodel was. Mr. Christie said \$50 a square foot. Ms. LaBass asked if they had talked to other people here in town. Mr. Christie said not to his knowledge.

Mr. Wenger opened the floor for anyone to speak in opposition of the development. There were none. The public hearing segment was closed at this time. The floor was opened for questions.

Mr. Morrey asked Mike if a 353 had occurred on the east side of town. Mike responded that no 353 redevelopment corporations had been established on the east side of town. Mr. Morrey said that usually this happens in an older part of town. Chapter 11 calls for the department to conduct an independent blight study. Are we doing a blight study? Mr. Morrey would like to be privy of that information.

Mike said no, that staff had reviewed the blight study provided by the developer. Mr. Morrey said it states that the department will conduct or commission a blight study. Mike stated that staff's review is already done and suffices as validating the study.

Mr. Wenger stated that the blight study submitted is sufficient. Mike said that staff and legal counsel has looked it over. Mr. Wenger said along with this, upon staff's inspections, the study would be validated.

Mr. Bucher asked if there was blight study on East Hills site. Mike said that East Hills had to do a blight study for the TIF, but none for 353. Mike went on to say that we had to make a determination of blight for the development of Greystone, Tuscany, and East Hills, but not for a 353. This indicates that blight has existed in areas on the east side of town.

Mr. Taylor asked Mike with regard to the definition of blight, have we met all of the criteria? On page 7, it talks about some judicial precedents, and states that only one thing has to be met to indicate blight, and that is kind of confusing to him. Mike said they do not have to meet all of them and each development area has different requirements. In this particular case, staff's review for us was it had an obsolete or outmoded design, deterioration was apparent, it does in fact become a social liability and also invites crime in which a hostile break-in may take place. To answer your first question, I do feel like we meet both sides of it, we meet the first criteria and the second would be included, but it does not need to meet all of them. Mr. Taylor did not know if they were using one definition for the 353 and one for the CID and so forth, but he does understand there were some judicial decisions that said that only one thing was required. My next question is that one thing that would determine the blight in this case. What is the most important thing to determine? Mike stated that he thinks, from his perspective, it would be the site design is obsolete and as far as square footage, it is not going to be utilized for any type of development in its current state. Not only that, the invitation of crime is also considered.

Mr. Taylor asked Mike, that in his opinion, does he think that all of these have been met? Mike stated yes to the ones that stuck out the most, he didn't know about the one in regard to transmission of disease. Mr. Wenger said the mosquitoes in the ditch. Mike said there would certainly be some liability there. Mr. Taylor said he hated to put Mike on the spot. Mr. Wenger said they were good questions for us to discern what it really means.

Mr. Wenger asked if there were any other questions in regard to blight. No response. He asked that they move on to the Determination as to the Development Plan; is it the right size for economic satisfaction, no displacement, no eminent domain, public facilities around it, fire, water, etc., zoning, those sorts of those issues. Are there any questions relevant to the plan itself?

Mr. Goolsby said that the only thing that comes to his mind is when we were through with the project, there are original things when it was Payless Cashways that needs to be

looked at to see if it is still good enough, and if not, is that going to be part of the procedure to go back and build it or change it like sewage and water? Mike said yes, we have met with them and discussed that they will have to go through subdivision process and which will require the relocation of the utilities, public sewer be extended, storm water retention, things of those nature, so it will all be corrected at that time.

Mr. Wenger asked if there were any other questions relative to the development plan itself? We will move to the next one, Financing and if financing is adequate which was asked earlier, but is there any other questions that we are uncertain about the determination as to financing that you want to know or want to discuss?

Mr. Goolsby said, for the record, none of this is involving liability for the city. It is all being privately funded according to what I see in this document you have here. US Bank will give them the money to do this entire project and the city is not going to be on the hook for anything. Mike said that is correct and that we will have no debt. Mr. Goolsby said that he knows that is an issue sometimes when they do things along this line and thinks we need to get this on the record. It is all being financed and there is no city liability in that regard.

Mr. Wenger has a question, from the city and citizen perspective, what is plan B if things go south, say five or 6 years down the line. Talk to us about what would happen if things did not work out five or six years down the road as to the financing and what is the liability of the city from that point of view.

Mike said that we would have no bond issue with this and no debt service; so really, worse case scenario would be getting payments in lieu of taxes according to the 353 agreement at the same rate for a matter of ten years. Any loss to the city would be in an increment above that over that ten year period and over the next five years, 50% value, so we are basically, in his opinion, it is the same for ten years or we get a depreciated tax revenue over the next ten years as the property is now if it were not redeveloped, so it is going to level off and we will have the same tax revenue, regardless. Mr. Wenger stated we have a number of taxable entities that were solicited for their opinion, did you get any feedback, say from the school district or anybody else? Mike said we received no negative feedback. We did have conversations with the school district and they are supportive of it and had no issue with it.

Mr. Morrey wanted to follow up with some of the things that Steve asked Mike. Is there any possibility of having some sort of performance bond, escrow or something, because it sounds like to me the term thinly financed seems like a fine break even for these guys. They said they would have to be given the property and still didn't know if it would make or break. I guess it is mainly because of our market conditions and our general economy. If it is that close and he puts his first building up and it doesn't work and he quits or stops, as I understand by reading this, is he intends to sell it out in two or three years for a song and take his profit down the road, literally. If he just doesn't want it and it is not making it, can't sell it and make the amount he wants to sell it for and it stops, what do we have out there? Does it have to stay a 353 for a period of time or can we come back

and change it to market? We are not going to get any taxes on it. Mike referred Mr. Morrey's question to Jennifer. For the record, my name is Jennifer Baird, with the law firm of Williams and Campo, counsel for the City of St. Joseph, 255 NW Blue Parkway, Lee's Summit, Missouri. What we will probably do, provided this is approved, we will enter into, meaning the city, a contract with the redevelopment cooperation. We will include claw-back provisions which basically would allow, if the conditions, like you say, were to happen, the property would go back on the tax rolls, so the 353 would end. Mr. Morrey asked Ms. Baird if she would be fine with the criteria if she could measure or judge that by per your contract and instructions. Ms. Baird said right, actually.

Mr. Wenger asked Ms. Baird if it was her understanding that from looking at the financing from a legal point of view, just on the surface, sort of talking to the ordinary person, for roughly ten years, the payments in lieu of taxes, the pilots is nearly a break even with the possibility, the upside after the tenth year, nearly a four time or three time bump or increase in taxation and if along the way, something does not work out, the infrastructure of the difficult, distressed site has been upgraded fairly inexpensively with not much risk to the city. Is that your considered opinion/thinking, looking at the way the money and project works? Ms. Baird said that with the way she looks at this, you are correct. The improvements to be made start this year and finishing up in 2012, yes, you will have an improved site and this is more or less, like you said, would benefit or help, and I am thinking like the way you put it, after the ten years, that's when it starts to be a little more of an incentive. Mike would like to add to that yes, basically, our prime investment in that ten years would be shrinking costs. After that, we would begin to capture some of that assessed value above the blighted property as it sits now, so, yes, we would have those immediate impacts from the city's standpoint even if the development fails. Those improvements would be detention, Cook Road, Belt Highway, intersection improvements and just the fact cleaning up the property from a planning perspective would all be benefits for the city upfront.

Mr. Morrey asked if there were any costs the city is going to incur up front for these improvements. Mr. Morrey asked about paying all those created costs if the roof leaks and starts to sag. Mike said all the new part of the site development and the 353 allows him to figure in those costs into his site development costs and cash flow it out. Mr. Morrey asked if the city has any financial exposure once this is approved. Mike said no.

Mr. Wenger said that we have spilled over into the tax abatement part of it. Is there anything specific about the tax abatement that we have not already asked in the finance? No comments.

Before we call for a vote, are there any other questions or comments?

Mr. Goolsby thinks we should be put on the record thanks to the city planner and his staff for the fine job of putting all of this together. He had talked to Mike before the meeting last week wanting to find out some information and Mike was very kind to answer my questions and helped clarify some things that he had some issues on. This was a fairly large undertaking. Since the time he had been on board, this is the most involved one.

Mike said he cannot take credit for the packet; it was put together by the applicant. He appreciated Mr. Goolsby's comments; this was a larger undertaking than most.

Mr. Wenger said that before we vote, just a reminder, we will go through each four items, Carol will read them and then, of course, it goes to council in the form of a recommendation. So, let's start with Motion #1.

**MOTION #1**

**DETERMINATION AS A BLIGHTED AREA** - I move to recommend to the City Council that the area in which the redevelopment is to be made is blighted pursuant to Chapter 353, RSMo and Section 11-27(2) of the City Code, St. Joseph, Missouri, and the redevelopment and reconstruction of the area is necessary and advisable to effectuate the public purposes.

Mr. Wenger called the question. Motion seconded Mr. Goolsby

VOTE: Bucher – yes, Goolsby – yes, Hebert – yes, Manville – yes, Morrey – no, Taylor – yes, Wenger – yes.

Ayes – 6, Nays – 1. Quorum vote is give votes. Motion passes.

**MOTION #2**

**DETERMINATION AS TO THE DEVELOPMENT PLAN** – I move to recommend to the City Council approval of the Development Plan, as it complies with 353, RSMo, and Section 11-56 of the City Code.

- (a) Complies with the City of St. Joseph master plan;
- (b) The area is of sufficient size to allow its redevelopment in an efficient and economically satisfactory manner.
- (c) The various states by which the redevelopment is proposed to be constructed and undertaken, as stated in the development plan are practicable, economically satisfactory and in the public interest;
- (d) No displacement of households will be caused by the redevelopment project, therefore, no relocation plan is necessary;
- (e) Public facilities, including, but not limited to school, fire, water, sewer, police, transportation, park, playground and recreation, are presently adequate, or will be adequate at the time that the redevelopment is ready for use, to service the area;
- (f) Proposed changes to the zoning of the property are included in the Development Plan which proposed creating consistency within the redevelopment area by establishing all properties to match the prominent zoning of the property which is C-3, Commercial District, designation, thereby making all involved properties consistent with the Land Use Plan.

Mr. Goolsby moves that recommendation be adopted. Motion seconded by Ms. Hebert.

VOTE: Bucher – yes, Goolsby – yes, Hebert – yes, Manville – yes, Morrey – no, Taylor – yes, Wenger – yes.

Ayes – 7, Nays – 1. Quorum vote is give votes. Motion passes.

**MOTION #3**

**DETERMINATION AS TO FINANCING** – I move to recommend to the City Council that the financing is adequate based upon the reasonable costs proposed in the development plan.

Mr. Goolsby moves that recommendation be adopted. Mr. Bucher seconds motion.

VOTE: Bucher – yes, Goolsby – yes, Hebert – yes, Manville – yes, Morrey – no, Taylor – yes, Wenger – yes.

Ayes – 6, Nays – 1. Quorum vote is give votes. Motion passes

**MOTION #4**

**DETERMINATION AS TO TAX ABATEMENT** – I move to recommend to the City Council that the tax abatement requested is necessary to permit the redevelopment contemplated by the Development Plan, and the requested tax abatement will not have a negative effect on taxing jurisdictions affected by such abatement due to the payment in lieu of taxes.

Mr. Goolsby moves that recommendation be adopted. Mr. Bucher seconds the motion.

VOTE: Bucher – yes, Goolsby – yes, Hebert – yes, Manville – yes, Morrey – no, Taylor – yes, Wenger – yes.

Ayes – 6, Nays – 1. Quorum vote is give votes. Motion passes

Mr. Wenger announced all four carry. This will go to City Council at a meeting in the very near future. Mike, do we know exactly on this particular case if it will indeed be next session or... Mike said it should be on the March 21st and April 4<sup>th</sup> agendas. So these will be forwarded to City Council at that time.

We have one more item; report from city planner. Mike does not have anything for them this evening. He has one application on the Riverfront Development next month. That is all the business we have.

Mr. Wenger thanked Mike for the commissioner report; there is always good stuff that we can use and keeping us informed is much appreciated. Commissioners, any questions or additions, announcements?

Ken Reeder asked about the riverfront development? Mike said that we have a Planned Unit Development proposal that will be coming up for the next meeting.

Mr. Wenger adjourned the meeting at 6:20 p.m..

cc: City Clerk  
Planning Commission Members  
Clint Thompson, P&CD Director  
Ted Elo, Assistant City Attorney  
Mark Townsend