

MINUTES  
PLANNING COMMISSION  
March 24, 2011  
7:00 P.M. – COUNCIL CHAMBER

	<u>Name</u>	<u>Attendance</u>
MEMBERS PRESENT:		
	Bob Bucher	(4-0)
	Ann Fisher	(2-2)
	Jerome Goolsby	(3-1)
	Reba Hebert	(4-0)
	Joseph Morrey	(4-0)
	Jason Park	(2-2)
	Bruce Taylor	(4-0)
	Steve Wenger	(3-1)
MEMBERS ABSENT:	Mark Manville	(2-2)

Quorum Present. Five members constitute a quorum.

STAFF PRESENT: Mike Kellam, City Planner  
Roger Sparks, City Engineer

Also in attendance: Steve Creal, John Gourley, Clinton Thomas, Ken Reeder

**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. He then called the meeting to order.

**Minutes of Regular Meeting February 24, 2011** Jason Park made a motion to approve the minutes of the February 24, 2011 meeting as submitted. Bruce Taylor seconded the motion.

VOTE: Bucher – yes, Fisher – abstain, Goolsby – abstain, Hebert – yes, Morrey – yes, Park – yes, Taylor – yes, Wenger – yes.  
Ayes – 6, Nays – 0, Abstain – 2. Quorum vote is five votes. Motion passes.

**Minutes of Special Meeting March 1, 2011** Joe Morrey asked for a correction to the minutes of March 1, 2011. On page 3, the first full paragraph, he had asked about the viability of this corner and what the developer was paying for it; he thought the market should dictate the price. Furthermore, the second part of that paragraph about the owner not wanting to lose money on the sale of the property was not said by him, although he understands that the owner was firm in his asking price. Also, Mr. Morrey said the minutes state that he is paying \$2.85 million for the property because that is the amount the county appraised the property for and he does not remember Mr. Christie saying that at all. He does remember asking why it is listed on the balance sheet as 1.4, but that is not noted in the minutes at all. Mike said the secretary had technical difficulty at that meeting; therefore, we will make the correction based on Mr. Morrey's account.

Jerome Goolsby made a motion to defer voting on these minutes until the regular April meeting in order that the minutes may be corrected.

Bob Bucher said this item has already been first-read at the City Council meeting on March 21. Mike said that is correct – it will go for final vote on April 4. In view of the fact that the city does not have a representative in attendance from the Legal Department, Mike said his suggestion would be to e-mail a copy of the corrected minutes to each member, then get an electronic vote.

Mr. Goolsby withdrew his motion.

Mr. Morrey asked if the minutes were a part of the ordinance that was first-read on March 21. Mike said yes, they are, but if we get corrected minutes to the City Clerk in time, she can amend the ordinance, adding the correct minutes, prior to the Council voting on it.

Steve Wenger made a motion that Mr. Morrey and Mike correct the minutes within the next seven days; Mike will conduct an e-mail vote within seven days. Mr. Goolsby seconded the motion.

VOTE: Bucher – yes, Fisher – abstain, Goolsby – yes, Hebert – yes, Morrey – yes, Park – yes, Taylor – yes, Wenger – yes.

Ayes – 7, Nays – 0, Abstain – 1. Quorum vote is five votes. Motion passes.

**Postponements/Adjustments to Agenda:** There were no postponements or adjustments to the agenda.

**Old Business:** There was no old business.

**New Business:**

Mr. Wenger stated that we will have the hearing for both part (a) and (b) at the same time, but at the end of the hearing, there will be two votes, one for each item.

**ITEM #1 JOHN GOURLEY**

(a) Requesting approval of a Zoning District Change from M-2 Heavy Manufacturing District to CP-3 Planned Commercial District at Buchanan County Parcel #'s 03-9.0-31-003-000-026.001, 03-9.0-31-003-000-026.002, 03-9.0-31-003-000-026.004 & 03-9.0-31-003-000-026.007 (A.K.A 3518, 3520 & 3602 Waterworks Road) in order to construct a mixed use residential and light commercial planned unit development.

**Staff recommendation: Approval**

(b) Requesting approval of a conceptual development plan for the Mixed Use Commercial & Residential District at Buchanan County Parcel #'s 03-9.0-31-003-000-026.001, 03-9.0-31-003-000-026.002, 03-9.0-31-003-000-026.004 & 03-9.0-31-003-000-026.007 (A.K.A 3518, 3520 & 3602 Waterworks Road).

**Staff recommendation: Approval**

Mike said he has nothing to add to the staff report. Staff recommends approval based on the five findings of fact required for a zoning district change.

Mr. Wenger asked about staff's concerns about flood and the particular type of structures as they relate to our zoning.

Mike said this property is located within an "A-8" flood zone. The applicant has met with our flood plain administrator, Sam Barber, regarding the FEMA regulations. It will be necessary for Mr. Gourley to meet the requirements for structures and finished elevation required by FEMA. Mike explained that the previous development at the old Waterworks plant is going through the same process, so Mr. Gourley and Mr. Creal have some experience dealing with FEMA and flood maps.

Mike advised the commission members that the structures are modular and would be approved along with approval of the conceptual development plan and PUD zoning. These types of modular structures are allowed on all residential lots.

Reba Habert asked if the revised FEMA maps have been approved. Mike said no and he does not know for sure when that will happen.

Steve Creal, 2516 Kent Street, appeared representing John Gourley to explain this project. He said he would be happy to answer any questions commission members may have.

Ann Fisher asked if they are abiding by the 100-year or 500-year flood plain plans. Mr. Creal said the elevations that have been established for this structure will be 4.5-5.0 feet above flood plain elevations for both plans (current and future FEMA plans).

Mrs. Fisher asked about public utilities. Mr. Creal said the only public utility that creates a costly problem is the city sewer system, which they hope the city will improve that system. He explained that the Health Dept. has approved lateral fields and septic system for this project.

Mrs. Fisher asked what the time frame will be if approval is given. Mr. Creal stated that they hope to be able to have the units up and in operation within 2½ or 3 months.

Mr. Creal explained that the modular units are a modern looking structure with primarily glass on the west side which will give them a view of the river and western countryside.

Jerome Goolsby asked about the stability/safety of the structures should a flood come through the area. Mr. Creal said the preliminary designs have already been done for the foundations. During design, they studied the water pressure with a beam within the floodway/riverway. The foundations will be below grade with columns extending above grade. He explained that those columns will be placed in a concrete foundation. Mr. Goolsby asked if this has been tested in other areas. Mr. Creal said yes.

Reba Hebert asked about life span of the structures. Mr. Creal said he really does not know but it would be the same as standard construction, i.e., 50-100 years.

Mrs. Hebert asked if there will be a home association to oversee the area. Mr. Creal explained that in the beginning, Mr. Gourley will be responsible for outdoor maintenance. It will be somewhat of a gated community.

Mr. Wenger asked if the project is intended to be summer residences or permanent homes. Mr. Creal said the intention is for permanent residents.

Joe Morrey said the septic field is identified as being on the northern part of the property. He asked if it is for the entire development. Mr. Creal said yes; they have equipment similar to lift stations/grinder systems that will carry from the furthest south units to the northern lateral field area. The two units on the north end will feed directly into it. Mr. Morrey asked if this meets the required criteria for septic tank. Mr. Creal said yes, he has already met with and received permits from municipalities involved, including the City Health Dept.

Mr. Morrey asked if the units will be for rent or resale. Mr. Creal said the intention is to rent them at first; it will be up to the developer to determine at a later time if he wants to subdivide the property in order to be able to sell individual units. Each unit will be constructed like a duplex, but will have an interior wall that can be removed to convert into a single family home.

Mr. Morrey asked if it will have a privately maintained roadway. Mr. Creal said yes. There is an access road running adjacent to the river and they will connect into that road. Mr. Morrey asked if the fire equipment and other emergency equipment will be able to access these homes. Mr. Creal said there will be sufficient access; however, they are considering sprinkling each unit.

Mrs. Hebert asked if the proposed access road will be hard surface. Mr. Creal said yes.

Jerome Goolsby asked if the septic will have some back ups built into the system to prevent any sewage leakage in the water system should something in the system fail. Mr. Creal explained that each unit will have a pump that will pump to a lateral field, to be located on the northeast corner of the property. They have been designed per city and state requirements. He also said he does not know what type of back up system he would need other than a back-up system on one of the pumps to ensure it is pumping properly.

Ann Fisher stated that the new septic tanks work the entire system independently for each property; they are very efficient.

Mr. Wenger asked if there will be a second point of access. Mr. Creal said River Road is already in the area and it will be the other access road.

Bruce Taylor asked if there are plans for developing access to the river at this location. Mr. Creal said a river walk has been discussed, but it could interfere with the privacy on the west side of the projects. Mr. Taylor asked if there will be a dock or any other access to the river. Mr. Creal said no; they do not want the liability.

Reba Hebert asked if they plan to use a septic system because there is no sewer access. Mike explained that the ordinance requires 3 acres or more for a septic system and if the property is within 200 ft. of a sewer, you must extend. He said this property is greater than 3 acres and it is farther than 200 ft. to the nearest sewer. Mike said the city will eventually have sewer available at this location, but it will not happen for quite a while.

No one else appeared to speak in favor or in opposition to this request. Chairman Wenger closed the public hearing.

Bob Bucher said at the top of page 2 of the staff report for item #1(a), it states that this area was discussed at length during the long range planning work sessions as being a prime area for mixed use development. This development provides this element and is viewed as an opportunity to encourage. Therefore, Mr. Bucher said this development and commission are right on course.

Joe Morrey asked how many acres total are in this development. John Gourley (4012 River Road) said there are roughly 11 or 12 acres. Mr. Morrey said he thought the three-acre rule would be per living unit. Since there are at least 6 units in the development, simple logic would dictate that 18 acres would be required for the development. Mike said the planned unit development gives the developer some flexibility. He said the ordinance states that in order for septic to be utilized, it must be 3-acres or greater and under one ownership. He said this part of the subdivision code carries over from the Health Dept. requirements. That is why Planning refers people interested in using septic systems to the Health Dept.

Mr. Morrey said it would not be possible under these conditions for Mr. Creal to subdivide the development and sell individual units. Mike said the developer could utilize a condo association who would be responsible for the overall maintenance and replacement/repair/removal of the septic system. Roger Sparks said that would be when the sewer provision would be a tipping point; if there are multiple owners being served, you must have public lines serving them and someone controlling the waste water, which is called the continuing authority. He said this becomes very onerous for a single party. The City is usually the regional continuing authority and could require a developer to install a sewer system in order to get the waste to the City treatment plant. Roger explained that he has already discussed this with Mr. Gourley and Mr. Creal.

Mr. Morrey said in this case, there would be no limit to the number of units you could place on a 3+-acre parcel. Mike said the subdivision process requires 3 acres or more without having to extend sewer to the lot; however, this is not a subdivision project. That is why they are always referred to the Health Dept.

Mr. Morrey asked specifically where the septic tank will be located. Mike said it will pump from each individual unit up to the septic tank lateral field in the northeast portion of the lot. The entire septic system is located in that area. Mr. Creal explained that each unit will have a holding tank located adjacent to the individual unit. From that, there will be a long [Mr. Morrey interrupted before this sentence was complete]. Mr. Morrey said, " ... lateral fields is what we're doing, but it overflows from the tank and then it's pumped to a remote location where it goes into a lateral." He said this will create a concentration of 16 living units in one contained area. Mr. Morrey said his own single household has been on septic for a long time – one household, yet this developer is proposing 16 units going into a confined area. Mr. Creal said there are only 8 living units going into the lateral field. The system was designed by an engineer and has been approved by the Dept. of Natural Resources. Mr. Morrey said the intent of the 3-acre rule is so there is not a problem and it does not affect the neighboring properties. He said this development is for 12 living units, most having two baths, so there will be quite a bit of run-off. Mr. Creal explained that the lateral fields will be distributed into an area that is roughly one acre in size. He said it was designed according to

the requirements from the City Health Dept. and DNR, which are the only guidelines available for them to go by. Soil tests showing the absorption tests have been provided to both entities.

Mrs. Hebert asked if we [the city] could be forced to supply the development with a sewer line at some time in the future. Roger Sparks explained that the most likely scenario would be a city sewer serving the properties at a point in the future if the developer decides to subdivide the property in order to sell individual units as either small lots or condos. He further explained that the city does not normally allow private roads to serve residential areas basically because of the cost of maintaining the roads.

Bruce Taylor asked for confirmation of what property is included in the rezoning. Mike said the four parcels listed in the application. Mr. Taylor asked if there is a likelihood that convenience stores, liquor stores, etc. could develop along the adjacent road. Mike said it would be up to whoever decides to develop the property, but it could happen as easily as not. However, since that property is currently zoned M-2, no retail could take place. Therefore, before any retail activity could take place, the property owner would have to seek a zoning district change and that request would have to be presented to the Planning Commission.

Ann Fisher asked if the CP-3 designation being requested by this developer would allow convenience stores or liquor stores. Mike said since it is a planned unit development, the developer will be regulated by the conceptual development plan, and the conceptual development plan for this project does not include any. Under the commercial designation, that building could be used for anything from a restaurant to a convenience store.

Ann Fisher said she likes this plan.

There being no further question, Chairman Wenger called the question the question for Item (a), zoning district change.

VOTE: Bucher – yes, Fisher – yes, Goolsby – yes, Hebert – yes, Morrey – yes, Park – yes, Taylor – yes, Wenger – yes.

Ayes – 8, Nays – 0. Quorum vote is five votes. Motion passes.

Chairman Wenger then called the question the question for Item (b), conceptual development plan.

VOTE: Bucher – yes, Fisher – yes, Goolsby – yes, Hebert – yes, Morrey – yes, Park – yes, Taylor – yes, Wenger – yes.

Ayes – 8, Nays – 0. Quorum vote is five votes. Motion passes.

Mr. Wenger reminded everyone that both of these items will be forwarded to the City Council for final action with a recommendation of **APPROVAL** from the Planning Commission. He suggested they contact the City Clerk to learn the date of the Council meeting.

## **ITEM #2 REPORT FROM CITY PLANNER/GENERAL DISCUSSION**

- Mike said that at this time, we have three applications for the April agenda.

- Mike said there will be a meeting of the Midtown Reinvestment Strategic Plan committee on March 31 at 6:00 p.m. at the Francis Street Methodist Church. Members of the Planning Commission are welcome to attend.

Bob Bucher asked about the boundaries of the Midtown area. Mike said it is roughly from 10<sup>th</sup> Street to Locust Street to 22<sup>nd</sup> Street and diagonal up to Buchanan Street. It does not include the Frederick Avenue corridor.

- Steve Wenger asked if the Planning Commission would consider putting on the record a thank you to Vince Capell for 20 years of service and Good Luck in Kingsville. It was agreed unanimously by acclamation.
- Steve Wenger announced that Chris Dunn will be resigning his duties in Leavenworth in order to attend law school.

There being no further business, Mr. Wenger adjourned the meeting at 8:08 p.m.

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

**Mr. Morrey:** It is still very difficult to hear you on the taped copy of the meeting. Please do your very best to speak into or toward the microphone and always ensure that it is turned on. We are interested in what you have to say and want it to be a part of the permanent record. Thank you.