

MINUTES
PLANNING COMMISSION
May 26, 2011
7:00 P.M. – COUNCIL CHAMBER

	<u>Name</u>	<u>Attendance</u>
MEMBERS PRESENT:	Bob Bucher	(6-0)
	Ann Fisher	(4-2)
	Jerome Goolsby	(5-1)
	Reba Hebert	(6-0)
	Mark Manville	(3-3)
	Joseph Morrey	(6-0)
	Bruce Taylor	(6-0)
	Steve Wenger	(5-1)
MEMBERS ABSENT:	Jason Park	(3-3)

Quorum Present. Five members constitute a quorum.

STAFF PRESENT: Mike Kellam, City Planner
 Ted Elo, Assistant City Attorney
 Bruce Taylor, Civil Engineer

Also in attendance: Ray Sisson, Don Evans, LouAnn Murphy, Dave Maggert, 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. At the request of the Legal Dept. representative, Chairman Wenger then entered Chapter 11, 26 and 31 of the Code of Ordinances into evidence.

Minutes of Regular Meeting April 28, 2011 Jerome Goolsby made a motion to approve the minutes of the April 28, 2011 meeting as submitted. Bob Bucher seconded the motion.

VOTE: Bucher – yes, Fisher – yes, Goolsby – yes, Hebert – yes, Manville – abstain, Morrey – yes, Taylor – yes, Wenger – yes.
Ayes – 7, Nays – 0, Abstain – 1. Quorum vote is five votes. Motion passes.

Postponements/Adjustments to Agenda: None

Old Business: There was no old business.

New Business:

ITEM #1 PROGRESSIVE COMMUNITY SERVICES by Lynn Wells, agent – Requesting approval of a Zoning District Change from R-1A Single Family Residential District to C-3

Commercial District at 2212 Highly Street in order that all their property at this location will have the same zoning district.

Staff recommendation: Approval

Mike said he has nothing to add to the staff report. This is a clean-up action for a non-conforming zoning classification. Staff recommends approval.

Ray Sisson, 2700 North Belt Highway, appeared representing Progressive Community Services to explain this request. Mr. Sisson said Progressive Community Services owns nine lots along Highly Street. When they started putting the property on the market, they learned that the middle three of those nine lots have never been properly zoned, even though they have been used as a parking lot. The request for zone change is to ensure the property is properly zoned for its use.

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

There being no questions, Chairman Wenger called the question.

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

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

This item will be forwarded to the City Council for final action with a recommendation of **APPROVAL** from the Planning Commission.

ITEM #2 DON EVANS – Requesting approval of a minor subdivision plan to be known as North Village Plat No. 3 located at 3500 North Village Drive. Proposes three lots on property currently zoned P-3 North County Development Precise Plan.

Staff recommendation: Approval

Minor Subdivisions are approved or denied by the Planning Commission

Mike said when the North Village Plat 2 subdivision was created, it separated the Green Acres building from the remainder of the county owned property. The intent at that time was to eventually plat these two additional lots. This minor subdivision plat is the follow-through of that original intention. Mr. Evans has a proposed tenant for the southernmost lot. The subdivision meets the minimum requirements of the subdivision code. Staff recommends approval.

Don Evans, 606 South Woodbine Road, said this is a follow-through to his agreement with the county that he would be able to purchase this ground and sell it the same day with all proceeds going into rehabbing the Green Acres building. Mr. Evans said he has a proposed tenant, the owner of a hotel, for the south lot, which will allow him to move forward with his project.

No one else appeared to speak in favor of this request.

LouAnn Murphy, 3418 Melwood Avenue, asked where this plat is located. She stated that she received a certified letter [from the City about this public hearing]. She would like to know how this would involve her. She asked to see a map of the area.

Mike said the certified letters were sent out for Plat 4 which is the next item on the agenda. He supplied her with a copy of the Plat 4 map.

Mr. Morrey asked if there are any plans for the north lot. Mr. Evans said no; part of his agreement with the county was that he could not buy just one lot – he has to close on both lots at the same time. He explained that the north lot may end up being landscaped and used for extra parking for the Green Acres building. If someone does decide they would like to build on the north lot, he would have to do a lot line adjustment and have additional negotiations with the county.

Mr. Morrey asked if Mr. Evans owns Lot 3B. Mr. Evans said yes, that is the Green Acres property. He explained that he owns the center lot with an option to buy the two adjoining lots.

Mike said the reason the Green Acres lot is called Lot 3B is because the original minor subdivision created Lot 3A which is 86.26 acres plus the two smaller lots. Three B was the Green Acres property. In this subdivision, Lot 3B will remain from the original subdivision, totally separate. Lot 1 will be northernmost lot; Lot 2 will be the southernmost lot and the 3rd lot plats the remaining 86 acres that the county owns. That lot will be wiped out once the final plat of Plat 4 comes through.

Mr. Morrey asked if it was originally planned for two additional lots to be made a part of it. Mike said yes. Mr. Morrey asked if the lots were platted. Mike said not at that time. Now they are creating the lots so they can legally be sold to Mr. Evans.

Mr. Morrey asked if the vote is on allowing Mr. Evans to carve the property down further from what he originally purchased. Mike said the commission would be determining if this plat meets the subdivision code and the minimum requirements.

Mr. Morrey asked if the .86 lot is a cell tower lease area. Mike said that is part of the remaining 86.26 acres. Mr. Morrey asked if that .86 acre lot is commercially viable, i.e. lot size and topography. He said said the commission has to consider whether it should be carved off the main property. Mike said the subdivision code does not grant the authority to determine whether a lot is marketable, viable, or what the best use would be. In this case, the Planning Commission should be considering the platting of the property and if it meets the minimum subdivision requirements.

There being no further questions, Chairman Wenger called the question.

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

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

This item has been **APPROVED** by the Planning Commission.

ITEM #3 BUCHANAN COUNTY, by the City of St. Joseph, agent – Requesting approval of a major preliminary subdivision plan to be known as North village Plat No. 4 located north of North Village Drive and west of North 169 Hwy; proposes six lots on property currently zoned P-3 North County Development Precise Plan.

Staff recommendation: Approval

Mike said originally we had hoped to include Mr. Evans lots [see Item #2 above] in this subdivision, but due to the time line for development, we were not able to facilitate that. This subdivision will not be final platted for some time. This is the preliminary plat/overall conceptual plan showing the intended layout for utilities, easements, roadways, and the large lots specified for the proposed City park and the YMCA development. The remaining part of North Village Drive and the Green Acres Road extension will be platted in this subdivision. Also, Jack Horner's property is unplatted and is included in this subdivision. There will be a water main extension, sewer utility extensions, and sewer extensions to serve these lots. The design was done in-house by the City as part of the partnership agreed upon by the City Council with the County and the YMCA to develop this sight.

Mike said staff recommends approval.

Dave Maggart, 3304 Gene Field Road, appeared represent Jack Horner's. He said he is in favor of this request as long as there are no stipulations that would change anything already agreed upon.

Mike said the boundaries of Horner's will not change; they will only be assigned a lot number. The two parcels owned by Horner's will be combined into one lot, but the overall boundary will remain the same and the land use will not be regulated any differently.

Mr. Maggart asked if the City will be extending sewer and water main in his direction. Mike said the preliminary plat states that there must be utility extensions to all lots so all lots can be served; therefore, any lot created by this plat will have to have mains that serve them, which include sewer, water, and electric. Mike emphasized that the time line on that is unknown at this time.

Mike said the city's portion of this is just over 26 acres; the Y's site is 8.188 acres; the large area of the county property will be an additional lot; the Jack Horner supply property is also a lot.

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

Joe Morrey said the city will end up with 26 acres. Mike said yes; that is currently county property but is part of the partnership agreement/memorandum of understanding approved by the City Council. They have agreed to lease 8+ acres to the YMCA. In return for the city's in-kind services and infrastructure, the county will donate Lot 2, the 26 acres for the park. Mr. Morrey said Lot 2 is 23.67 acres; is that the lot to which Mike is referring. Mike said yes.

Mr. Morrey asked if we know how the other lots will be used. Mike said Lot 1 will contain the existing cell tower; Lot 2 will be the proposed city park; Lot 3 will remain open country at this time (the precise plan indicates this will be office/retail use. The County is hoping to be able to have an office park/hotel development). Lot 4 will be for the proposed YMCA center. There are no plans

for Lot 5 at this time; it will still be owned by the County. Lot 6 is the Jack Horner property; including them in this plat gives them a regular legal description instead of tract land.

Bob Bucher asked about the road. Mike said there is a loop road that we are currently doing preliminary grading for at this time; however, the road will not be built until the property develops.

Reba Hebert asked if the city and county are in partnership for the cost of the infrastructure. Mike said the memorandum of understanding approved by the City Council states that the infrastructure will be paid by the City and YMCA. The County's financial investment is the donation of the land to the City and to the YMCA. Mrs. Hebert said that she understands that we are initially committed to a park, but as the area develops, are we locked into that? Mike said the use is locked in; the precise plan designates this area for a park.

There was no further discussion. Therefore, Chairman Wenger called the question on recommending approval of the plat.

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

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

This item will be forwarded to the City Council for final action with a recommendation of **APPROVAL** from the Planning Commission.

ITEM #4 CHRISTIE DEVELOPMENT ASSOCIATES, LLC b David N. Olson, agent – Requesting approval of a Subdivision Improvement Agreement for the development known as Cook Crossing, located northwest corner of Cook Road and Belt Highway.

Staff recommendation: Approval

Subdivision Improvement Agreements are approved or denied by the Planning Commission

Mike said this action is similar to what we have done with other subdivisions. The developer wants to be able to file the final plat and create the lots to allow the sale of the lots and construction of the buildings that will occupy those lots at the same time the infrastructure is being completed. If approved, the City will require a bond on an form approved by our Legal Dept and an executed agreement approved by the Department of Public Works (based on the construction plans). Surety will be in place so if the developer were to default, the city could collect that surety and pay for the improvements to be done. The subdivision code allows this option as a developmental tool. Staff recommends approval.

Mr. Wenger asked what affect this agreement would have on the adjacent property owners. Mike explained that it ensures that the required infrastructure improvements will be completed. Roadways, sewer main extensions, water main extensions, etc. are covered.

No one appeared to speak in favor of this request and no one appeared to speak in opposition. Chairman Wenger closed the public hearing.

Jerome Goolsby said his understanding is that approval of the Subdivision Improvement Agreement (SIA) would be giving the developer a waiver from completing the infrastructure prior to any construction; also that sometime in the next five years, the developer would have to complete the infrastructure. Mike said the term of a Subdivision Improvement Agreement is two years; otherwise, the city would maximize the surety bond. The five years is accelerated when we enter into a Subdivision Improvement Agreement in order for a quicker completion. The waiver is not of making the improvements, but of completing the improvements prior to the final plat being approved. If the Subdivision Improvement Agreement is approved, the developer can file the final plat with the condition that the SIA is executed and we have agreed upon an amount for surety that the City can cash in if the developer defaults.

Mr. Goolsby also asked for clarification on the part of the code that says the developer will warranty all infrastructure for two years, after which the maintenance becomes the responsibility of the City. Mike said that is correct; the required warranty will be for two years after the improvements have been accepted by the City.

Mr. Goolsby asked about the Irrevocable Letter of Credit. Mike said the City's engineers itemize everything that needs to be constructed and submit a figure of what it would cost the city to do the improvements. The developer obtains the Irrevocable Letter of Credit from their bank in that amount.

Ann Fisher asked if one of the two driveways will be Ryan's. Ms. Fisher asked if they will share that driveway; she does not see where he has retained two rows for his own parking area. Mike said Ryan's will have their own driveway; two additional driveways will also be available. One of the existing driveways on Cook Road will be relocated to line-up with Walgreen's driveway.

Joseph Morrey asked if the developer has five years from final platting acceptance to complete the improvements. Mike said no, if this SIA is approved, they would have only two years in which to complete the improvements. Mr. Morrey said he thought two years is standard; Mike said five years is standard. Before a developer files a final plat, either all infrastructure should be completed *or* an SIA should be in place. The five-year time line is the standard requirement for completion of infrastructure for a preliminary plat. Mr. Morrey asked if the SIA is approved, would they have an additional two years after approval of the plat to complete the infrastructure. Mike said with the SIA, they would be allowed two total years to complete the infrastructure.

Ted Elo said the SIA gives the City a secure instrument to build the infrastructure should the developer fail or chose not to build in a timely fashion. In addition, Ted said the local water company is difficult to deal with; in all subdivisions, they will not install water until there is an approved final plat. Lastly, Ted explained that the developer cannot sell a single lot until the final plat has been approved by the City Council. With an SIA in place, the developer can sell lots at the same time he is putting in the infrastructure. Generally, Ted said the construction/renovation is completed at the same time the infrastructure is completed. Ted said every subdivision in the last five years has received an SIA; prior to that, the city accepted a \$1,000 signature for all infrastructure necessary. Ted explained that we have only had to contact the bank of two developers and, after doing so, the improvements were finished before the timeline expired.

Mr. Morrey said if we do not approve an SIA, the infrastructure has to be completed before the final plat is approved. Mike said yes. Mr. Morrey asked if there is any cost-of-living increase included in the Letter of Credit. Mike said a contingency percentage is included.

Mike explained that approval of an SIA actually accelerates the infrastructure construction time line. If the SIA is not approved, the developer has five years to complete infrastructure, during which time they cannot sell individual lots.

Bruce Taylor asked if granting the SIA would speed up completion of the project. Mike said yes. It allows the construction of the buildings to occur at the same time as the public improvements. This gives us a finished product in a shorter amount of time.

Mike explained that the reason this developer has requested an SIA is because they have buyers interested in purchasing lots.

Bob Bucher said quite a number of SIAs have been approved by this body.

There being no further questions, Chairman Wenger called the vote.

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

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

This item has been **APPROVED** by the Planning Commission.

ITEM #5 REPORT FROM CITY PLANNER/GENERAL DISCUSSION

- Mike said at this time, we have four agenda items for June. We also have a pending plat that is on hold at this time.
- Steve Wenger distributed a short review of the hotel/motel tax. He said many of the elements included, i.e., Riverfront development, are items this commission has discussed as priority issues. Mr. Goolsby said our tax percentage would still be less than Kansas City, but he wonders if some of the tourists would be discouraged with this large of an increase; also, he asked if anyone has studied the numbers and determined if it would drive away business. Mr. Wenger said the local hotels are in favor of this tax – there is no opposition. They are not afraid of losing business because in the long run, we are making ourselves more attractive.
- Mr. Wenger thanked Mike for providing members with the Commission Report.

There being no further business, Mr. Wenger adjourned the meeting at 8:00 p.m.

The next regular meeting of the Planning Commission will be held on Thursday, June 23, 2011 at 7:00 p.m.

cc: City Clerk

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