

## **PLANNING AND ZONING COMMISSION**

**April 30, 2012**

The Planning and Zoning Commission, City of Kearney, Missouri, met in special session at 6:30 P.M., April 30, 2012, at Kearney City Hall with Kathy Whipple presiding. Members present were Dan Holt, Darren Hiley, Eric Shumate, Kent Porter, Heath Courtney and Kim Murphy. Staff members present were David Pavlich, Chad Coffelt and Jim Eldridge.

Kathy Whipple called the meeting to order and opened the meeting with the Pledge of Allegiance.

### **PUBLIC HEARING**

**REZONING REQUEST, FROM M TO C, NCH ENTERPRISES (BUEHLER PROPERTY URGENT CARE & MEDICAL FACILITY)** – Community Development Director David Pavlich presented an application from NCH Enterprises to rezone 3 acres from M- Industrial to C-Commercial. The applicant is represented by Patricia Jensen, of White Goss Bowers. The property is owned by Robert and Dorothy Buehler, who have given authorization to NCH Enterprises to proceed with the rezoning and other related applications.

Pavlich submitted his report for the record, which was accepted by unanimous consent. He went on to summarize the following:

The proposed rezoning would accommodate submittal of plans and a final plat (Washington Office Park) for a proposed medical office building with urgent care and community health services. It would be used as a medical clinic during normal business hours, and operate as an urgent care facility in the evenings.

Additional rezoning applications will be submitted as additional phases of development occur (the total parcel acreage being approx 9 acres).

The Future Land Use Map designates the property for commercial development. Surrounding Land Uses are commercial in nature, with a mixture of retail and office uses.

Public notices were posted in the Kearney Courier on April 19 and April 26, 2012, and notices were mailed to property owners within 185 feet.

Access to the site is provided along the north property line at the west end of West Washington Street and through a 50' driveway easement between McDonald's and the Shell gas station. Due to congestion at certain times of the day and the close proximity of the access drive to the I-35 interchange, access to/from 92 Highway location should be controlled, and uses that generate large traffic volumes, such as fast food restaurants, should be discouraged.

Covenants & restrictions covering the entire 9-acre property have been submitted for review and recording with the final plat. The document establishes a design review committee and limits uses within the development, including future phases, to commercial offices and medical offices. Retail, restaurant, and residential uses are not allowed.

Staff recommended approval of the rezoning subject to comments contained in the staff report. The application will be considered by the Board of Aldermen at a Public Hearing to be held on May 7<sup>th</sup>, 2012.

Chair opened the floor for public comment, first recognizing the applicant.

Patricia Jensen, of White Goss Bowers, representing the owner, NCH Enterprises, requested approval of the zoning request which she noted is consistent with the City's future land use plan.

Kim Murphy asked why the entire tract was not being zoned at this time. Heath Courtney noted the tract being re-zoned to Commercial was in the middle of the 9 acres, leaving ground both on the north and south to be left as Industrial.

Jensen stated the owner would be fine with re-zoning the entire tract.

No other comment from the public being received, floor was closed.

A motion was made by Murphy and seconded by Hiley to recommend approval of the rezoning application as submitted subject to staff comments. Voting for the Motion: Murphy, Hiley, Shumate, Holt. Voting against: Porter, Courtney. Motion carried by a 5 to 2 vote.

### **NEW BUSINESS**

**WASHINGTON OFFICE PARK, NCH INTERPRISE MEDICAL CLINIC PRELIMINARY PLAT AND SITE PLAN** – David Pavlich submitted the staff report for the record, which was approved by unanimous consent, which he summarized as follows:

NCH Enterprises proposes the Washington Office Park preliminary plat & site plan for a medical office building on Lot 1. The property includes nine acres located along the east side of Interstate 35, with Fries Lawn & Leisure and Mid Continent Public Library to the north and the McDonald's and Shell gas station to the south.

The preliminary plat proposed four commercial lots and two tracts for ingress/egress. Full access will be provided through the north tract, while the southern drive will include a one-way roundabout allowing access only into the site from 92 Highway. Only Lot 1 and the private drives on tracts A and B will be developed at this time.

The plat identifies the potential layout of buildings, parking, and stormwater detention facilities for those future lots. Additional applications will be submitted for review as future phases develop.

The applicant proposes to construct a new 12,000 sq. ft. medical office building on Lot 1. Phase 1 will include doctor's offices, administrative offices, and after-hours evening urgent care. A future expansion will increase the building to 26,855 sq. ft.

No portion of the subject property is located within the 100-year floodplain, and the site is not affected by the FEMA update.

Surrounding development generally includes various office and retail businesses. The proposed development is compatible with other uses in the area. The property has remained vacant for many years, likely due to accessibility.

Access to the site is provided at the north end of the property at the west end of West Washington Street. A 50' wide driveway easement between McDonald's and the Shell station also provides access at the south end. The easement provides for ingress and egress but contains the statement: "...makes no warranties or representations to Buehlers as to the likelihood or the ability of Buehlers to have access to Highway 92 by way of such easement, such determination resting solely within the police powers of the City of Kearney..." Due to congestion and the close proximity of the access drive to the I-35 interchange, access to/from 92 Highway at this location should be controlled and used that general large traffic volumes, such as fast food restaurants, should be discouraged from the site. A roundabout has been proposed at the south end of the property to allow one-way traffic into the project. Traffic exiting would be routed to the north, accessing West Washington Street.

A 24' wide private street, with curbs, and box culvert will be constructed on Tract B to provide access from West Washington Street. A roundabout and additional curbed street will be constructed on Tract A. The roundabout will be one-way, not permitting traffic to exit to 92 Highway. A 30' emergency vehicle can maneuver around the roundabout.

Construction of the building, street, box culvert and a water line extension are expected to occur concurrently. The applicant should be prepared to address how contractors and construction equipment will enter and exit the site during construction, while still minimizing construction traffic in and out between the McDonald's and Shell gas station.

Future maintenance of the private drives will be addressed as part of a separate private drive agreement, which has been submitted for review and recording with the final plat.

Because private streets provide access among the proposed and future lots within the development, cross access should be provided through proposed Lot 1. Cross access will be provided as part of the private drive agreement that will be recoded with the final plat documents.

The box culvert crossing will require approval from the Corps of Engineers. Staff recommends submittal of the Corps of Engineers approval prior to issuance of a building permit, because full in and out access to the site is only provided to the north. Additional construction-related information will be submitted as part of the construction documents at the time of the building permit.

The project will be served by City Sanitary sewer and water. An existing sanitary sewer line runs through the property. A 10" water line will be extended through the property.

A 1" engineering review fee will apply for review of the water line construction plans and is payable to or as part of the final plat review process prior to construction.

Because public facilities will be constructed after the final and during other site construction, a completion guarantee for construction of the water line is required. The guarantee must be submitted to the Board of Aldermen for approval prior to beginning construction.

A stormwater drainage report was submitted and approved by the City's engineer. Stormwater detention will be addressed on a lot-by-lot basis as each lot is developed. For the medical office/urgent care project, a detention area will be located behind the proposed building.

A land disturbance permit from the Missouri DNR is required prior to site grading—it is anticipated the applicant will seek approval to begin grading shortly after rezoning and plan approval by the Board of Aldermen.

The Kearney Fire and Rescue Protection District requires a key box be installed near the main entrance.

Proposed parking appears to meet code and ADA requirements. Proposed landscaping appears to meet requirements.

Wall signs included in the plan. The plan should be revised to identify the location and conceptual information for the proposed monument signage. Sign permits are required as part of the building permit and or prior to installation of signs.

Preliminary plat/site plan approvals expire within one (1) year of approval.

Staff recommends approval with the following conditions:

1. Submittal of revised drawings prior to the Board of Aldermen meeting, including:
  - a. Location and conceptual design for proposed monument sign; and
  - b. Any further revisions, if necessary;
2. Submittal of the private drive agreement, establishing ownership and maintenance requirements for tracts A & B and cross access through and among the lots and tracts, for review and recording with the final plat;
3. Submittal of detailed construction information as part of the building permit

- application, as requested by the City engineer;
4. Submittal of a Corps of Engineer approval for the bridge crossing prior to issuance of a building permit;
  5. Submittal of construction plans for the water line extension, to the City and MoDNR prior to construction;
  6. MoDNR construction permit prior to construction of the water line extension;
  7. Payment of 1% review fee to cover cost of engineering review for the proposed water line, and payable at the time of building permit application submittal;
  8. Submittal of a completion guarantee for public improvements, for review and approval by the Board of Aldermen, prior to recording of the final plat and issuance of a building permit;
  9. Submittal of a MoDNR land disturbance permit prior to site grading;
  10. Installation of a key box, as required by the Kearney Fire & Rescue Protection District;
  11. Submittal of a building permit application prior to construction;
  12. Submittal of a sign permit with the building permit application or prior to installation of signs;
  13. Development of the project in compliance with all city codes, conditions, requirements, plans and payments of fees.

This application will be forwarded to the Board of Aldermen for review on May 7, 2012.

Patricia Jensen introduced the Nathaniel Hagedorn, President of Northpoint Development; Mick Slutter, engineer; Chad Meyer and Chris Williams, both with Northpoint Development; and Doug Beichley, architect. David Jones and Dirck Clark of Heartland Health were also present.

Jensen noted a 12,000 sq. ft. medical building will be constructed in Phase 1 providing both Doctor's offices and Urgent Care services. Phase 2 would expand the building to nearly 27,000 sq. ft. for specialty medical practices such as oncology and cardiology. Heartland Health's plan is to introduce healthy lifestyles to the Kearney community.

Northpoint Development will be responsible for the overall development and construction of the project.

Jensen acknowledged the City's concerns with access to the site from 92 Highway and information has been provided to MoDOT, who has expressed no concerns relative to the use of access to 92 Highway between McDonald's and Shell. They will limit access to ingress only as recommended by City staff.

Jensen requests one condition be amended to allow construction to proceed concurrently with the construction of the north access.

Jensen apologized for any previous information being presented to the contrary, the facility will indeed provide Urgent Care services in the 1<sup>st</sup> Phase plan.

Nathaniel Hegadorn of North Point Development advised the traffic generation to site impact is very minimal.

He noted North Point became affiliated with Heartland Health last year. Heartland Health is a hospital system with 3500 employees, based in St. Joseph. They are a nationally and regionally recognized health provider and a 2009 recipient of the Malcolm Baldrige Award. The Malcolm Baldrige National Quality Award recognizes U.S. organizations in the business, health care, education, and nonprofit sectors for performance excellence. The Baldrige Award is the only formal recognition of the performance excellence of both public and private U.S. organizations given by the President of the United States.

Heartland Health is also a showcase hospital for the Cerner Corporation, a large northland medical software employer. Heartland has also been the recipient of the Foster G. McGaw Prize. The Foster G. McGaw Prize recognizes hospitals that have distinguished themselves through efforts to improve the health and well-being of everyone in their communities.

Hegadorn noted that Heartland would be investing \$4 million into a state of the art facility in Kearney, completing public infrastructure improvements without asking for any financial assistance from the community. The building will have lots of windows, stone masonry and will utilize solar energy in the building.

He noted the restrictive covenants submitted for approval limit the use of the undeveloped tracts to similar professional office usage, insuring low traffic impacts being generated to and from the site.

Hegadorn described the use of the facility will be medical offices featuring urgent care services during the day, evenings and weekends. Future phases would include specialty practices such as pain management, oncologists and cardiologists that will rotate among their Northland clinics.

Access will be one way access through a roundabout to provide ingress from 92 Highway between McDonald's and Shell. Using a trip generation exhibit, Hegadorn compared traffic from a fast food restaurant being 3000 trips per day, a gas station being 3200 trips per day with Phase 1 of the medical facility being 276 trips per day. He noted the AM/PM peak would be 22 cars per day. He believes the regular patients will use West Washington to access the site.

He noted that ingress is really not the problem, although the PM Peak would be 12 cars per day exiting the site if full access were to be provided.

Hegadorn noted that based on traffic engineer models, the medical center posed a very minimal impact, which is likely why MoDOT did not have concerns.

Darren Hiley asked if 12,000 sq. ft. was used in the assumptions, noting the building will double in size—would it be fair to multiply the impact by 4 to 5 times recognizing the undeveloped new areas that could potentially develop.

Hegadorn agreed that total future peak could be 100 cars. He noted the challenge with the access is the egress—traffic leaving the site.

Heath Courtney suggested the square footage on the Shell facility is likely ½ that listed on the displayed exhibit, also noting McDonald's was more like 3200 sq. ft. rather than 5700 sq. ft. as listed on the exhibit so the traffic generation exhibit should be modified to double the project's traffic and halve the fast food and gas numbers.

Dan Holt asked if Hagadorn had visited the site during the peak AM/PM hours, noting a legitimate traffic problem now existing with a high frequency of accidents. Any additional traffic is somewhat of a deal.

Eric Shumate noted that based on the City's 2009 Transystems study, the AM peak traffic at that location was 197 cars, and the PM peak was 164 cars.

Kent Porter noted traffic on Platte Clay Way that turns right will likely start using the Medical Center's private road to avoid traffic lights, stating it would be a race track and a lot more accidents.

Hagedorn said they could install speed bumps to discourage through traffic. He noted his clients believed that access from 92 Highway was important to the success of the project.

Hagedorn requested two condition amendments to the staff report:

- 1) Construction access to the site be permitted from 92 Highway until a conspan bridge can be constructed to provide access from West Washington, which will take 2 months.
- 2) Request the Corps permit approval process to run concurrent with the building permit to be secured prior to issuance of a Certificate of Occupancy.

He hopes the Commission and City appreciate the benefits of the project and recommend approval as requested on behalf of Heartland Health.

Patricia Jensen requested that Staff Condition #4 be amended to read: Submittal of a Corps of Engineer approval for the bridge crossing prior to issuance of a construction permit for the bridge crossing, said bridge crossing shall be completed prior to issuance of a certificate of occupancy for the building of Lot 1.

Jensen noted they propose two monument signs—along I-35, and on Tract B on West Washington, which are not currently shown on the plan.

In addressing future potential access/traffic issues, Jensen suggested a restriction be placed on the preliminary plat requiring any development beyond the development of the

first lot shall be subject to a traffic study to be approved by the City's engineers, noting the drive agreement they have does not give cars access for the rest of the lots to go through Lot 1.

Kim Murphy noted that signs can only be placed on the lot, not off premise. A code change or interpretation will need to be made. He also noted that the plan contained no free standing parking lot lighting—all lighting was located on the building. Hagedorn will insure the photometrics are met and good and safe access will be provided.

Murphy asked the number of physicians will occupy the building—Hagedorn said four.

Eric Shumate asked the construction time line. Hagedorn said the construction start is planned in May with an aggressive construction schedule to be completed as soon as practical.

Shumate noted the City's sanitary easement was being called a utility easement on the plat and inquired if the developer sought to use the easement for other purposes. Hagedorn advised the easement was to remain exclusively for sanitary sewer purposes. Shumate also verified a drainage study will be submitted and wanted to know how the detention is addressed.

Dan Holt asked about fire hydrants. Staff advised they would be installed with the water line construction.

Darren Hiley suggested shifting the roundabout to the west edge of the property to conserve space and improve the access. He also suggested tire spikes.

Jensen said she preferred not to install tire spikes, but they are willing to look at further measures.

Dan Holt suggested using motion sensors with an automatic gate. Hagedorn said that would be preferable to spikes although they would prefer their roundabout design—he noted having a private drive gives them ability to introduce speed bumps and other deterrent measures.

Hiley asked about the community space in the building, asking its use. Hagedorn said its use will be focused on group health and wellness seminars and sessions, with plans to bring in speakers on exercise and healthy eating etc.—the room would accommodate groups up to 32.

Heath Courtney appreciated the fact that Heartland Health was a noted award recipient for outstanding community service and has no issues other than access from 92 Highway—it would be a service to the Kearney community if they would solely utilize the West Washington Street entrance to this site.

Kent Porter noted that all of the measures being introduced to insure a one-way ingress from 92 Highway will seemingly make the route so egregious that their own customers will have difficulty using the entrance. He encouraged them to abandon their efforts to have an access from 92 Highway, noting that there was only room for 3 cars to stack before the McDonald's entrance becomes blocked, preventing left turn movement from 92 Highway into the site.

Kim Murphy noted the Commission is charged with the responsibility to lesson and avoid congestion on public streets and highways. The property may hold rights to a private access from 92 Highway, but he is disappointed to think they would consider not building the project because 22 cars. He doesn't think customers will get lost, especially when they are coming by appointment. He noted the southern tract, when developed, will also generate additional traffic in the future. The City's experience with negative traffic impacts from commercial projects on 92 Highway has not been good.

Heath Courtney pointed out the narrow definition of easement, noting he believes the intent of the private ingress/egress easement was meant to access the property from 92 Highway for property maintenance and not intended for accessing for commercial purposes. Jensen stated the easement clearly allows access legally. Kent Porter pointed out the easement languages stating no warranties were given that the City and or State would permit the property to be developed with access to 92 Highway.

Eric Shumate stated egress isn't a concern for him as much as the ingress opportunity for through traffic utilizing the roadway. He believes the volumes will go up. Hegedorn noted they could eliminate access to West Washington if cut through traffic, and not traffic volume, is a concern.

Kim Murphy said he is not worried about cut thru traffic, but concerned about the eventuality of MoDOT installing a raised island on 92 Highway, as they will be doing on the West 92 Highway project, to prevent left turn movement—which will also impact existing business.

Murphy said he was disappointed with the comment, "If we don't get this access, then this will not be a viable project."

Kathy Whipple asked if the City received any correspondence or communications from Shell or McDonald's, noting the additional traffic could accelerate roadway damage and wear. She noted that Cerner was mentioned in the meeting, pointing out that both Cerner and North Kansas City Hospital don't have direct access on Highway 210, using Walker Street. She agrees with the fellow board members that 92 Highway access will back up traffic at the Interchange.

Hegedorn explained they were truly interested in trying to come up with a solution acceptable to everyone.

Holt stated the project would be a great asset to the community if the access can be figured out.

The Chair invited questions from the public in attendance.

Linda Porter, owner of a commercial building on Platte Clay Way, noted that cut through traffic even travels across her lot through the Bill Wood property.

Carol O'Dell, owner of a drive through coffee shop, noted similar experiences with inconsiderate motorists using her drive through as a short cut.

Larry Pratt, 1305 Colony, noted that typically 2 routes of ingress/egress are desirable for emergency service delivery, suggesting an emergency exit on the south be permitted.

A motion was made by Heath Courtney and seconded by Kent Porter to approve the preliminary plat and commercial of Washington Office Park, subject to all staff comments, with the South Drive being removed completely from the project.

Murphy suggested the access be restricted to a single lane.

Heath said his concern was stacking on 92 Highway.

Hiley asked the motion be amended to direct staff and developer to work out an adequate parking lot lighting plan, which the Commission accepted by unanimous consent.

Murphy asked the motion be amended to permit construction access from 92 Highway until such time as the Washington Street access was completed prior to issuance of Certificate of Occupancy, which the Commission accepted by unanimous consent.

Jensen asked the motion be amended to revise Staff Comment No. 4, as follows: Submittal of a Corps of Engineer approval for the bridge crossing prior to issuance of a construction permit for the bridge crossing; said bridge crossing shall be completed prior to issuance of a certificate of occupancy for the building on Lot 1. Commission accepted by unanimous consent.

Restated motion by Courtney and seconded by Porter to approve the preliminary plat and commercial of Washington Office Park, subject to all staff comments, with the South Drive being removed completely from the project, directing staff and developer to work out an adequate parking lot lighting plan, permitting construction access from 92 Highway until such time as the Washington Street access was completed prior to issuance of Certificate of Occupancy, and revising Staff Comment No. 4, as follows: Submittal of a Corps of Engineer approval for the bridge crossing prior to issuance of a construction permit for the bridge crossing; said bridge crossing shall be completed prior to issuance of a certificate of occupancy for the building on Lot 1. Voting for the Motion: Courtney, Porter, Hiley, Murphy, Shumate, Holt. Voting against: None. Motion carried unanimously.

The conditions of approval, as amended and recommended by the Planning & Zoning Commission are as follows:

1. Submittal of revised drawings prior to the Board of Aldermen meeting, including:
  - a. Location and conceptual design for proposed monument sign; and
  - b. Any further revisions, if necessary;
2. Submittal of the private drive agreement, establishing ownership and maintenance requirements for tracts ~~A & B~~ and cross access through and among the lots and tracts, **as necessary**, for review and recording with the final plat;
3. Submittal of detailed construction information as part of the building permit application, as requested by the City engineer;
4. ~~Submittal of a Corps of Engineer approval for the bridge crossing prior to issuance of a building permit~~ Submittal of a Corps of Engineer approval for the bridge crossing prior to issuance of a construction permit for the bridge crossing; said bridge crossing shall be completed prior to issuance of a certificate of occupancy for the building on Lot 1;
5. Submittal of construction plans for the water line extension, to the City and MoDNR prior to construction;
6. MoDNR construction permit prior to construction of the water line extension;
7. Payment of 1% review fee to cover cost of engineering review for the proposed water line, and payable at the time of building permit application submittal;
8. Submittal of a completion guarantee for public improvements, for review and approval by the Board of Aldermen, prior to recording of the final plat and issuance of a building permit;
9. Submittal of a MoDNR land disturbance permit prior to site grading;
10. Installation of a key box, as required by the Kearney Fire & Rescue Protection District;
11. Submittal of a building permit application prior to construction;
12. Submittal of a sign permit with the building permit application or prior to installation of signs;
13. Development of the project in compliance with all city codes, conditions, requirements, plans and payments of fees
14. Removal of the southern access drive;
15. Allow southern access for construction vehicles, until such time as the north access is completed or issuance of a certificate of occupancy;
16. That the developer and city staff work out an adequate parking lot lighting plan.

**WASHINGTON OFFICE PARK, FIRST PLAT, NCH INTERPRISE MEDICAL CLINIC FINAL PLAT** – David Pavlich submitted the Staff report for the record, which was approved by unanimous consent, which he summarized as follows:

Staff recommends the final plat be approved with the following conditions:

1. Further plat revisions, if necessary;
2. Submittal of the private drive agreement, establishing ownership and maintenance requirements for tracts ~~A & B~~ and cross access through and among the lots and tracts, **as necessary**, for review and recording with the final plat;
3. Submittal of construction plans for the water line extension, to the City and MoDNR prior to construction;

4. MoDNR construction permit prior to construction of the water line extension;
5. Payment of 1% review fee to cover cost of engineering review for the proposed water line, and payable at the time of building permit application submittal;
6. Submittal of a completion guarantee for public improvements, for review and approval by the Board of Aldermen, prior to recording of the final plat and issuance of a building permit;
7. Further revisions and approval of construction plans for public improvements, if necessary;
8. All necessary permits are obtained prior to construction of public improvements;
9. Submittal of a building permit application prior to construction;
10. Development of the project per the approved construction plans;
11. Development of the project in compliance with all city codes, conditions, requirements, plans, and payments of fees;
12. Recording of the final plat and other documents, within 1 year.

This application will be forwarded to the Board of Aldermen on May 7, 2012.

Kim Murphy pointed out the prior motion would eliminate Tract A, recommending to amend the reference to Tract A from the Staff Report.

A motion was made by Kim Murphy and seconded by Darren Hiley to recommend approval of the final plat of Washington Office Park, subject to all staff comments as amended. Motion carried unanimously.

**ADJOURNMENT** There being no further business appearing meeting adjourned.

**Approved:** \_\_\_\_\_ **Attest:** \_\_\_\_\_  
**Kathy Whipple, Chairperson** **Darren Hiley, Secretary**