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From: **Jerry, Tom** <tjerry@spencerfane.com>

Date: Fri, Dec 30, 2016 at 11:37 AM

Subject: RE: Columbia, MO Draft UDC

To: Timothy Teddy <timothy.teddy@como.gov>

Cc: "Greiman, Gerry" <ggreiman@spencerfane.com>, "Preston, Robert" <rpreston@spencerfane.com>

Tim:

Many thanks for speaking with me the other day and providing the follow-up detail.

As we discussed over the phone, a hard-and fast benchmark of 15,000 square feet is not workable for a number of reasons (especially when applied to grandfathered buildings), including:

1. Many of the C-1 areas already contain numerous buildings in excess of that number, and a number of C-1 areas are directly adjacent to C-3 areas (e.g., see the Stadium Blvd. corridor);
2. It is in everyone's best interests that existing buildings be put to their highest and best use and not be subject to vacancy due to the imposition of square footage restrictions (i.e., when it is time to backfill buildings due to tenant turnover, the most efficient approach is to find replacements who will use all or most of the existing square footage rather than subdivide);
3. It is somewhat nonsensical to provide that an existing building be subdivided into 15,000 square foot uses at the time of its transition to new tenants. It isn't clear how such an approach would have any impact on the transition between commercial development and adjacent neighborhoods;
4. Many existing buildings cannot be readily or affordably converted for use by smaller users;
5. The 15,000 square foot number is not adequate from the standpoint of prototypical high-end retail users (unless the objective is to ensure that fast food chains and merchants such as Dollar Tree and Family Dollar dominate these "transitional" landscapes); and
6. The 15,000 number appears to be arbitrary and capricious and could very well expose the City to numerous legal claims including suits for inverse condemnation. Further, there is no apparent justification for the distinction between grocery stores and other users.

I realize that the proposed ordinance is still in somewhat preliminary form, but I wanted to bring these concerns to your attention as they may be relevant to the Commission's current considerations.

We will plan on taking an active role in 2017 as the legislation moves through the City Council process.

Thomas W. Jerry
Partner

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BUSINESS PROPERTY
LEASING & SALES

To: Tim Teddy and Pat Zenner, City of Columbia
From: Paul Land, 573-445-1020
Date: December 20, 2016
Re: C-1 to M-N conflict

A topic was raised at the December 15, 2016 P & Z hearing about certain C-1 zoned properties that present a conflict with conversion to the UDC's M-N district on the official zoning map by either;

- a.) Having a single use retail in excess of 15,000 sq. ft.
- b.) Having a supermarket or grocery in excess of 45,000 sq. ft.

P & Z postponed deciding how to amend the UDC on this topic of conflict until its January 5, 2017 meeting. Potential solutions offered by Mr. Lindner's letter, included:

- Eliminating the described 15,000 sq. ft. limitation for retail and the 45,000 sq ft grocery store in the new M-N district, or
- Altering the official zoning map to convert certain identified retail centers to be zoned district M-C, rather than district M-N

An attached summary shows (9) specific properties that feature this conflict, which are currently zoned C-1.

Since these identified C-1 properties are all adjoined by property and actual uses currently zoned R-3 or higher, under the current code, and these properties are oriented toward arterial and collector street or at major commercial intersection, I favor changing the official zoning map to show these (9) identified properties as M-C, rather than M-N, on the official zoning map. Though eliminating the sq. ft. limitation is another approach to resolving the issue.

This correspondence is intended to lend support to Mr. Lindner's concern and how to address it.



December 20, 2016

SUMMARY

Properties Zoned C-1 with single building occupant using greater than 15,000 sq. ft. of retail space or have greater than 45,000 sq. ft. supermarket

<u>Name/Address</u>	<u>Use</u>	<u>Zoning</u>	<u>Adjoining Zoning</u>
1.) Nifong Shopping Center NW Nifong & Providence	Grocery	C-1	R-3
2.) Rockbridge Shopping Ctr NE Nifong & Providence	Grocery	C-1	C-1
3.) Kohl's Green Meadows extend to Grindstone	Retail	C-1	C-1
4.) Orscheln Buttonwood & Providence Rd	Retail	C-1	C-1
5.) Hy-Vee W. Broadway & Fairview	Grocery	C-1	R-3
6.) Crossroads Shopping Center NW Broadway & Stadium	Retail	C-1	R-4
7.) Stadium Plaza NE Worley & Stadium	Retail Best Buy Hobby Lobby	C-1	R-3
8.) Westlake Hardware W. Worley near Stadium	Retail	C-1	R-3
9.) North County Shopping Ctr Paris Rd. near Mexico Gravel Rd.	Grocery	C-1	C-1



City of Columbia
2016 Unified Development Code Proposal
Retail Use Sizes

Section

Page 155, Section 29-3.3, Primary Uses of Land and Buildings, (aa) Retail, General

Concerns/Questions

- Subsection (1) states: "A retail use in the M-N and M-BP districts may not exceed a gross floor area of 15,000 sf, except a grocery store may not exceed 45,000 sf".
- This wording is problematic and will result in a loss of property values as well as a regulatory taking for many properties in this community.
- Current C-1 properties that have a grocery store or retail store in excess of these requirements include the Nifong Shopping Center, Rock Bridge Shopping Center, Kohl's, Orscheln on south Providence, Hy-Vee on west Broadway, Crossroads Shopping Center, Stadium Plaza and Westlake Ace Hardware.
- Our property, Nifong Shopping Center, cannot be redeveloped under this requirement in the event we lose our anchor grocery store, Gerbes. If that were to happen, the retailers we have spoken to are all in excess of 15,000 sf and it is unclear as to whether we could even backfill Gerbes with a new grocery store, as their footprint is currently 59,000 sf.

Suggestions

- Remove this statement completely.
- Re-Zone the above listed properties to M-C in conjunction with this ordinance.

29-4.8 Neighborhood Protection Standards

(a) Intent

This section is intended to preserve the residential neighborhood character of established homes within multi-family districts and adjacent to Mixed Use or Special zoning districts.

(b) Applicability

These standards apply:

- (1) To all lots in the R-MF district that contain a principle use other than a single- or two-family dwelling; and
- (2) To all lots located in any zone district other than the R-1 and R-2 districts that shares a side or rear lot line with a lot in the R-1 or R-2 district.

Amendment to 29-4.8

(a) Applicability

These standards apply:

- (1) To all lots within an Urban Conservation Overlay District only if the Overlay language itself is amended to accept these standards. Otherwise, these neighborhood protection standards do not apply to lots within an Urban Conservation Overlay District; and**

[Comment: Note that any Urban Conservation Overlay District may adopt these 29-4.8 Neighborhood Protection Standards, or, may adopt standards that vary from these standards. The spirit of this paragraph is to preserve the unique character of distinct neighborhoods in the city]

- (2) To all lots that have not been subjected to the criteria of protection set forth in Table 29-2.8 M-C District Dimensional Standards Summary. For lots that have been subjected to the protection standards of that table these standards do not apply additionally; and**

[Comment: The Neighborhood Protection Standards listed in this 29-4.8 would add additional restrictive measures to properties already protected by Table 29-2.8 so further protections are not necessary]

(1 3) To all lots in the R-MF district that contain a principle use other than a single- or two-family dwelling; and

(2 4) To all lots located in any zone district other than the R-1 and R-2 districts that shares a side or rear lot line with a lot in the R-1 or R-2 district.



The District · Downtown Community Improvement District
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December 14, 2016

Planning and Zoning Commission
City of Columbia
701 East Broadway
Columbia, MO 65205

Dear Planning and Zoning Commission Members:

The Downtown CID respectfully submits the following feedback on the MD-T portion of the Proposed Integrated Draft of Development Code.

We have reviewed the revised document and the compiled list of amendments and suggest additional changes for the final version of the code. We appreciate the adjustments so far however are still concerned that the standards might prove too cumbersome or costly when applied to smaller projects or to incremental improvements to existing buildings. Downtown Columbia has many small, mixed-use, adaptive re-use projects that may struggle to comply with the proposed code requirements.

Our overall goal is to create and support a vibrant, sustainable core that attracts a mix of visitors to our downtown. We ask that you consider our additional feedback, which is intended to promote and protect the small businesses within our downtown.

Thank you in advance for your time and consideration. We are grateful for your time and commitment throughout this review process.

Sincerely,

Katie Essing
Executive Director
Downtown Community Improvement District

CID BOARD

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Recommendations for MD-T Zoning Code from the Downtown CID –
December 15, 2016 Public Hearing

Overall Section 29-4.2: Provide a Quarter Block Exemption

We recommend a small project exemption for lot sizes smaller than 17,100 sf (typical of a quarter block), for expansions not to exceed 75% coverage of a parcel or for properties on the National Register of Historic Places.

Section 29-4.2(c): Recommend updates to the Regulating Plan, as follow:

- Expand "Core Height of 10 Story" shaded area to the east, to Hitt Street.
- Eliminate the amendment that revised the M-DT Regulating Plan such that its boundary line is moved to the centerline of St. James as it travels from Park to Ash and retract that small tails that are remaining back to the intersection of St. James and Ash and St. James and Park. This area is part of the Downtown CID and currently includes tenants such as Dogmaster Distillery, Yoga Sol and Talking Horse Theater. To be consistent, these locations should be included within the MD-T.
- Corrections for alley designations on revised regulation plan, per attached marked-up plan. 1) Alley indicated that does not exist between Providence and Fourth, north of Broadway. 2) Alley indicated between Sixth and Seventh, north of Elm, that does not exist. 3) Property at 24 South Ninth Street extends over the alley indicated between Ninth and Tenth, North of Cherry. - Commonly owned private alley.

Section 29-4.2(d)(6)(xii): Refine the Street Wall requirement

We recommend additional language be added to clarify that landscaping alone is acceptable to meet the street wall requirement. In addition, need clarification as to if landscaping is required to be at least six foot wide, as detailed in the referenced section 29-4.5(d)(i): *Landscaping Strip Within Private Yards: All paved areas with more than forty (40) feet of length within twenty-five (25) feet of a street right-of-way shall have at least a six (6) foot wide street yard landscaping strip within private yards separating parking areas from abutting street rights-of-way.*

Section 29-4.2(e)(1)(ii)(B) Reconsider the Open Area requirement on a small site.

On a small site, this can significantly constrain a project or it may result in the Open Area being located in the rear, where it may be less beneficial to users or the public realm.

Consider tailoring this standard in these ways:

- Increase the "residential open area" requirement to 18 units to allow more flexibility for small, mixed-use developments.
- Establish a minimum threshold of less than 17,100 sf in lot size (or front width), below which the Open Area standard does not apply.
- Permit landscaping in the Parking Setback Line to count toward the Open Area

requirement.

- Permit a higher percentage (perhaps even up to 100%) of the Open Area requirement to be met above grade level. Currently, amendment 1(v.) appears to contradict by stating *"private or public open area may be located on any floor or combination of floors or any location of the lot provided it is accessible to all residents or tenants of the building the open area requirement is intended to benefit."* Does this mean that all of the open area requirement can be met above grade?
- Clarify requirement for a mixed used building. For example, if retail space is on the ground floor and residential units above, would the retail space contribute towards the 67% open space requirement on the ground level?
- Allow for an open space fee in lieu, in which downtown green space or park could be funded when development cannot accommodate open space.
- Count landscaped area in front of the Parking Setback Line toward Open Space.

It appears that in current draft code, landscaping within the Parking Setback Line does not count toward the Open Area requirement. Consider permitting landscaping within the Parking Setback Line to count for Open Area, perhaps for some specific conditions. For example, when a project has a plaza or courtyard abutting the sidewalk that the portion in front of the Parking Setback Line also count as Open Area.

Section 29-4.2(d)(6)(ix): Parking Setback Line

We recommend that the Parking Setback Line be reduced from 24 feet to a minimum of 4 to 6 feet, due to the potential lost buildable area for small parcels. For example, the landscaped parking setback near Bank of America at Eighth and Cherry is 6 feet.

