



City of Columbia, Missouri

Meeting Minutes

Planning and Zoning Commission

Thursday, January 9, 2020

7:00 PM

Regular Meeting

Council Chambers

Columbia City Hall

701 E. Broadway

I. CALL TO ORDER

MS. LOE: I'm going to call the January 9, 2020 Planning and Zoning meeting to order.

MS. LOE: Ms. Burns, may we have roll call.

MS. BURNS: Yes. We have eight; we have a quorum.

MS. LOE: Thank you, Ms. Burns.

Present: 8 - Tootie Burns, Sara Loe, Joy Rushing, Lee Russell, Anthony Stanton, Rusty Strodtman, Brian Toohey and Valerie Carroll

Excused: 1 - Michael MacMann

II. INTRODUCTIONS

III. APPROVAL OF AGENDA

MS. LOE: Mr. Zenner, are there any adjustments or additions to the agenda?

MR. ZENNER: No, there are not, ma'am.

MS. LOE: Thank you. Can I get a motion to -

MS. RUSSELL: So moved.

MS. LOE: Thank you, Ms. Russell.

MR. STANTON: Second.

MS. LOE: Thank you, Mr. Stanton. Second on that. I'll take a thumbs up approval on the agenda.

(Unanimous vote for approval.)

MS. LOE: Unanimous.

Move to approve agenda as submitted

IV. APPROVAL OF MINUTES

December 19, 2019 Regular Meeting

MS. LOE: Minutes. Everyone should have gotten a copy of the December 19th, 2019 regular meeting minutes. Were there any changes, additions, edits to those?

MR. STANTON: I move to approve the minutes.

MS. RUSSELL: Second.

MS. LOE: Thank you. Moved by Mr. Stanton, seconded by Ms. Russell. I will take a thumbs up approval on those. Unanimous.

Move to approve the minutes

V. SUBDIVISIONS

Case # 25-2020

A request by Anderson Engineering (agent), on behalf of P1316, LLC (owner), for approval of a three-lot preliminary plat of PD (Planned Development) zoned property to be known as *Discovery Park Subdivision Preliminary Plat Revision #3* that includes the proposed extension of Endeavor Avenue and Nocona Parkway. The 52.75-acre subject site is generally located west of the roundabout intersection of Endeavor Avenue and Nocona Parkway.

MS. LOE: That brings us to our first case of the evening under Subdivisions.

MS. LOE: May we have a staff report, please.

Staff report was given by Mr. Clint Smith of the Planning and Development Department. Staff recommends approval of Discovery Park Subdivision Preliminary Plat Revision #3.

MS. LOE: Thank you, Mr. Smith. Before we move to Commissioner questions of staff, I would like to ask any staff who has had any ex parte related to this case to please disclose that now so all Commissioners have the same information to consider on behalf of this case in front of us. Seeing none. Are there any questions for staff? I see none. This is not a public hearing, but we do typically open the floor for anyone who might have public comments on this case so we might consider those on behalf of the case. If you do come forward, please state your name and address for the record, and you will have three minutes to speak.

MR. WOOTEN: My name is Tom Wooten with Anderson Engineering, 4240 Philips Farm Road in Columbia, and I'm only stepping forward to offer to answer any questions if you have them.

MS. LOE: Are there any questions for this speaker? I see none. Thank you. Mr. Smith, you did a good job.

MR. SMITH: Thank you.

MS. LOE: All right. Commission discussion? Ms. Russell?

MS. RUSSELL: Well, this seems pretty cut and dry. I'm going to propose a motion. In Case 25-2020, I move to approve the Discovery Park Subdivision Preliminary Plat

Revision #3.

MR. STANTON: Second.

MR. STRODTMAN: Second.

MS. LOE: Second by Mr. Strodtman. You've got to be a little quicker. Oh. I gave it to Mr. Strodtman. I'm sorry. It was Mr. Stanton. Mr. Strodtman needs to be a little quicker. We have a motion on the floor. Any discussion on that motion? Ms. Burns, may we have a roll call, please.

MS. BURNS: Yes.

Roll Call Vote (Voting "yes" is to recommend approval.) Voting Yes: Ms.

Rushing,

Ms. Russell, Mr. Toohey, Ms. Burns, Ms. Carroll, Ms. Loe, Mr. Stanton, Mr.

Strodtman. Motion carries 8-0.

MS. BURNS: Eight to zero, motion carries.

MS. LOE: Thank you. Recommendation for approval will be forwarded to City Council.

Move to approve the Discovery Park Subdivision Preliminary Plat Revision #3.

Yes: 8 - Burns, Loe, Rushing, Russell, Stanton, Strodtman, Toohey and Carroll

Excused: 1 - MacMann

VI. PUBLIC HEARINGS

Case # 24-2020

A request by Anderson Engineering (agent), on behalf of P1316, LLC (owner), for approval of a PD plan on 2.25 acres of PD (Planned Development) zoned property to be known as *Discovery Park Plat 5, Lot 501 PD Plan*. The PD Plan proposes development generally consisting of commercial and office uses, the extension of Endeavor Avenue, and a design exception to Section 29-4.6 of UDC relating to entry door orientation. The subject site is located at the northwest corner of Nocona Parkway and Endeavor Avenue.

MS. LOE: We're going to move on to the public hearings for the evening. Our first case under public hearings is Case Number 24-2020, a related case.

Staff report was given by Mr. Clint Smith of the Planning and Development Department. Staff recommends approval of the requested PD Plan to be known as Discovery Park Plat 5, Lot 501 PD Plan and the associated design exception to Section 29-4.6.

MS. LOE: Thank you, Mr. Smith. Before we move on to Commissioners' questions, I would like to ask any Commissioners if they have any statements or any ex parte that

they would like to share with the Commission on behalf of this case so that all Commissioners have that information in front of them? Mr. Stanton?

MR. STANTON: I think I'm going to recuse myself from this case. I've -- involved with a lot of stuff in that area and I just want to be safe.

MS. LOE: I understand. Thank you. Any additional comments or ex parte? Seeing none. Are there any questions of staff? I see none. This is a public hearing, so since the Commissioners have no questions for staff, we're going to open up the public hearing session.

PUBLIC HEARING OPENED

MS. LOE: If you have any public comments that you would like to share on this case, please come up to the podium and give your name and address for the record. You will have three minutes to speak. If you're representing a group, you'll have six minutes to speak.

MR. WOOTEN: Hello, again. Tom Wooten, Anderson Engineering, 4240 Philips Farm Road, Columbia. And again, just stepping up to answer any questions if you have any on this.

MS. LOE: Thank you. Are there any questions for this speaker? I see none. Oops?

MS. CARROLL: I have a question, actually.

MS. LOE: Ms. Carroll.

MS. CARROLL: It looks like -- so there's not going to be any entryways on the street. The entryways are facing the parking lot?

MR. WOOTEN: Correct.

MS. CARROLL: That looks like it's -- that direction is open towards the subdivision that's also going in; is that right? So -

MR. WOOTEN: I'm not aware of a subdivision going in.

MS. CARROLL: Below there. Okay.

MR. SMITH: Yeah. So just to orient you, the buildings would be fronting here and here.

MS. CARROLL: Right. So they will -

MR. SMITH: And this is the -- the multi-family development here to the -

MS. CARROLL: The north. So they were, like, half rotated on the presentation slide? Okay. Got you.

MR. SMITH: I apologize.

MS. CARROLL: Okay. Thanks.

MS. LOE: Any additional questions for this speaker? I see none. Thank you.

MR. WOOTEN: Thank you. Are there any additional speakers on this case? If there are none, we'll close the public speaking session.

PUBLIC HEARING CLOSED

MS. LOE: Commissioner discussion? Ms. Russell?

MS. RUSSELL: I'll go ahead and make a motion. In the case of 24-2020, I move to approve the requested PD Plan to be known as Discovery Park Plat 5, Lot 501 PD Plan, and the associated design exception to Section 29-4.6.

MS. RUSHING: Second.

MS. CARROLL: Second.

MR. STRODTMAN: Second.

MS. LOE: Oh. I think Ms. Rushing. Oh, was it Ms. Carroll?

MS. CARROLL: No.

MS. LOE: It was Ms. Rushing. You're getting better though, Mr. Strodtman.

MR. STRODTMAN: I'm trying.

MS. LOE: We have a motion on the floor. Any discussion on that motion? I see none.

Ms. Burns, may we have roll call, please.

MS. BURNS: Yes.

Roll Call Vote (Voting "yes" is to recommend approval.) Voting Yes: Ms.

Rushing,

Ms. Russell, Mr. Toohey, Ms. Burns, Ms. Carroll, Ms. Loe, Mr. Strodtman. Motion carries 7-0.

MS. BURNS: Seven to zero, motion carries.

MS. LOE: Recommendation for approval will be forwarded to City Council. That takes us to our next case.

Move to approve the requested PD Plan to be known as Discovery Park Plat 5, Lot 501 PD Plan, and the associated design exception to Section 29-4.6.

Yes: 7 - Burns, Loe, Rushing, Russell, Strodtman, Toohey and Carroll

Excused: 1 - MacMann

Recused: 1 - Stanton

Case # 28-2020

A request by Brush and Associates (agent) on behalf of Thomas and Pam Kardon (owners) for a rezoning of approximately .44 acres of property from PD (Planned Development) to M-N (Mixed Use- Neighborhood). The property is addressed 1001 N. Providence Road and is located at the northwest corner of Providence Road and Third Avenue.

MS. LOE: May we have a staff report, please.

Staff report was given by Ms. Rachel Bacon of the Planning and Development Department. Staff recommends denial of the M-N zoning map amendment.

MS. LOE: Thank you, Ms. Bacon. Before we move to Commissioners' questions, I would like to ask any Commissioner who has had any ex parte on this case to disclose that now so all Commissioners have the same information to consider on behalf of this case in front of us. Seeing none. Are there any questions for Ms. Bacon? Ms. Burns?

MS. BURNS: Ms. Bacon, do you know what the coffee shop hours -- how late they're open in the evening? No?

MS. BACON: I don't, but the gentleman who owns it is here, so it might be a question for him.

MS. BURNS: Okay. Thank you.

MS. LOE: Ms. Carroll?

MS. CARROLL: Can you remind me what the zoning of the coffee shop is?

MS. BACON: It's PD.

MS. LOE: Mr. Strodtman?

MR. STRODTMAN: Ms. Bacon, I think you -- earlier slide said there was 19 postcards?

MS. BACON: Uh-huh.

MR. STRODTMAN: A couple of questions then. I assume one of those 19 would have been the CPS? Would they have gotten a postcard?

MS. BACON: Yes. Uh-huh.

MR. STRODTMAN: And there was no feedback of any sort from those 19, other than the coffee shop in agreement verbally?

MS. BACON: Yes.

MR. STRODTMAN: Thank you.

MS. LOE: Mr. Toohey?

MR. TOOHEY: So is your main objection because of the alcohol and tobacco sales and the hours of operation, or was it just in general all the other -- I mean, was it specifically those two items?

MS. BACON: Those were the two that we were most concerned about being directly across from the school.

MR. TOOHEY: Okay.

MS. LOE: Any additional -- Mr. Toohey?

MR. TOOHEY: So Taco Bells are beginning to serve alcohol around the country. So what happens if Taco Bell begins to start selling alcohol? Are there any restrictions that prohibits them from doing that?

MS. BACON: No. They would be outside the 100 feet.

MR. ZENNER: And I think the difference there, Mr. Toohey, is Taco Bell is currently zoned to operate as a restaurant, which is not what this site currently is allowed or authorized to operate as. And I think that was part of what Ms. Bacon's point was is there was a significant amount of neighborhood engagement to specify the uses to reduce impact that this facility may create. We can't speak to why those neighbors have not responded at this point. However, we believe it is our duty to ensure that, as Ms. Bacon pointed out, that that public process that was employed is honored to the extent that it can be. Obviously, this decision is yours if you feel that it is appropriate to remove the conditions and Council agrees with that, that'll be the outcome. However, we believe that there are other issues associated with this that resolving the desire for expansion of the uses can be accommodated and it is more appropriate to go through that process than to open this particular site up to an opportunity to change at the whim of a market that may potentially create much greater negative impact on the adjoining property owners than what exists there or possibly what the applicant would like to do immediately, and that is what the planned district process provides for us at this point.

MS. LOE: Any additional questions of staff? Seeing none, we're going to open up the public comments.

PUBLIC HEARING OPENED

MS. LOE: If anyone has public comment on this case, please come up to the podium and give your name and address for the record. You'll have three minutes to speak on your behalf. If you're speaking for a group, you'll have six minutes.

MR. RIPPETO: My name is Tom Rippeto, and I live at 806 West Boulevard South. And I'm interested in this neighborhood for a couple of reasons. I am an investor in property in the last couple of years in that area, and I'm an alumni of the Ridgeway School District, and feel like this area, and I want to segue on the word that you used, it is a very sensitive residential area. And encroachment from I-70 or Business Loop 70 has created a number of problems for those -- that area. It's almost a case of where if you're going to give it up to retail and that sort of thing, it's just going to push us all the

way -- all the way back. Parking lots, neon signs, you're going to destroy the neighborhood. I think there is a significant number of residents in the area that enjoy that type of a neighborhood, and I think as an investor -- I own -- I just purchased four lots on Third Avenue just across the street from this -- this business. And the way the whole thing sits, it looked -- it looks perfectly fine. But I'm very concerned about trying to -- and I'm going to demolish some houses and wanting to build in that area. You know, what am I going to be dealing with? The traffic from some of the businesses on I-70 filter down through that neighborhood already. I'm afraid -- I'm afraid this change will encourage that even more. And it's not -- it's not necessarily local traffic that's coming through there. So it again -- it's a sensitive area. It's not going to affect my -- probably my investment long term, anything like that, but I do have an interest in the neighborhood from -- actually from that whole -- that whole area. Any questions for me?

MS. LOE: Any questions for this speaker? I see none at this time. Thank you.

MR. DARKHALIL: Yosef Darkhalil, I'm with 1009 North Providence, Aroma Coffee House. And we are Mr. Kardon's neighbor. And the reason we are supporting Mr. -- because we don't want to see an empty building. Because what I'm seeing now, I've been there every day for the past three years where they have a sign out there to lease it for the past seven months. And a lot of people come in to talk to me thinking I own the place because I'm there, and here you want -- and no, they call the number, so called him, and they -- they can't because they have to go through that every time they need to lease it for something or something else. Now the building is there and I'm -- I'm -- so the building is not going to change with the zoning. And I believe that there are a hedge in the new UDO that was passed in 2015 that will prohibit the use -- the sale of alcohol and tobacco, and that's at least what I thought when -- when we developed the coffee shop that it will never -- and I hope it will never sell that across the street from school. Now the other -- the other thing that I'm hearing from the investors like the gentleman that spoke, and I'm -- nobody is building their own home over there. Yes, they're building homes, but they're building homes for business, and they are using three or four or five lots on that, and they are collecting about -- or paying about \$3,000 or \$4,000 in property taxes, where Mr. Kardon's lot, after it was developed from \$500 to \$10,000 in property taxes. So he pays \$10,000 in property taxes and now he's going to wait on an empty building if he can't find the right tenant. So just look at it from his -- as investor put -- that puts a building there and he can't change it. It's there now. We can't change the building, but we're going to see an empty building. And, you know, just growth and he just has to mow it without -- without a tenant. That's what we really want to see. And I didn't see any -- spoke with the neighbors and it's there, not maybe the change of use, it's not going

to change that many traffic on that, that much of the traffic on that -- on that building. I hope you consider his request and help him out, at least.

MS. LOE: Thank you. Are there any questions for this speaker?

MR. STANTON: If I'm correct, you own --

MS. LOE: Mr. Stanton?

MR. STANTON: Oh, excuse me. If I'm correct, you own the coffee shop?

MR. DARKHALIL: Yes. Correct.

MR. STANTON: Okay. That you came before us a couple of years ago, last year?

MR. DARKHALIL: Yes.

MR. STANTON: Okay. So you understood at that point when you came before us then how serious the neighborhood is about retaining a particular feel, a particular, you know, buffering from commercial property. Your argument just now is, oh, it's going to increase property tax, it's an empty building. We need to do something with it, but you understand through the report, it's not a matter of using it, it's our concern of how it can be used with the zoning. I don't think -- and so by giving you the open slate to do whatever you want in that building, do you see where the concern of the neighborhood would be? I mean, so the property tax really isn't their concern. They're concerned about their neighborhood in general.

MR. DARKHALIL: Yes. I -- I studied -- and if I exceeded my time, I can just -- just let me know when. But I -- when we started the coffee -- that building and the rezoning on that, I studied the whole case of Mr. Kardon before I even talked to the neighborhood. And we started with the neighborhood and we did not have any problems with most of the neighbors in the neighborhood. Now we did have some people standing in here and talking about it and a lot of them, I'd say 30 percent of them, were not even in the neighborhood, but just they're here and they just come in and complain about every single project in this town. And I've -- they have been in front of you and you know them, and I know them, and I can -- you know, we're not naming names, but it -- it happens. So a lot of the rejections, all the minutes are there. I have copies of it. I could -- a lot of the complaints did not come from the neighborhood because we -- we met -- actually, like, the neighbors and now with what we did up -- most -- some of the neighbors said no, and now, you know, we're hosting that we're going host hopefully the neighborhood meetings in the coffee shop, for instance. But what I'm saying now, it's a beauty supply shop. Right? And it has traffic. It's not going to stop. Cars going to come, cars are going to go, customers are going to come. So if it's going to be a restaurant, which is -- I'm not -- you know, I'm a coffee shop and it may be a competitor to me if he puts a restaurant there. I'm saying okay, why not? Give him that -- it would be less traffic than -- than a

retail shop like that. But -- so the traffic part of it, I'm really not seeing anything because if -- if you've been on Providence, it does not lack traffic and they don't stop. They're just in and out, in and out, like, going back and forth. So I -- there are some -- the neighbors that were not with it, but not everybody that came. A lot of them came to support that -- actually, that --

MR. STANTON: So if it's about using the building, then a planned development shouldn't be a problem there, because then it's -- then it's protecting what the neighbors have concerns with and it's protecting our concerns because I live right close to this and I -- I know the neighbors around there. I don't want a liquor store there. I don't want a -

MR. DARKHALIL: Yeah. Well, I really do not think -

MR. STANTON: I don't want a -- none of that.

MR. DARKHALIL: I thought there was a hedge in the 2015 UDO that will stop any -- and I'm, you know, I would love to own Aroma Coffee House for -- forever, but one of these days, if somebody else bought it from me or my siblings come in and they want to put a cigarette store or a -- that they will -- something will stop them from doing that. I hope so.

MR. STANTON: You went through a big fight with your coffee shop. Right? And we -- you know, I remember that. I was in on -- a part of that, so -

MR. DARKHALIL: Yeah. Uh-huh. No. I -- I'm just wanted -- I really -

MR. STANTON: The neighborhood is -

MR. DARKHALIL: I'm -- right now, with what I see and the neighbors, I'm concerned that with -- with what the tenants want every time they call to come and rent it, if they -- because he has to come in and apply for a new permit every time he gets a new business, every five years or three years, and it's always people call and then they will never call him back again because they -- of that. So I'm -- I'm just -- I'm here to ask if you guys can give him a, you know, a pass on that. And I'm sorry that I -

MS. LOE: Ms. Burns?

MS. BURNS: Yeah. How late is coffee shop open?

MR. DARKHALIL: Eight. Eight.

MS. BURNS: So 6:00 in the morning till 8:00, and I hope we're not -- that we're not violating anything here, because I thought 7:00 to 7:00. No. We're open 6:00 to 8:00, and just to let you know, we employ ten workers at this minute. Right now they're -- and at least seven of them are full time, and three of them walk to the coffee shop from their -- their residence, so -

MS. BURNS: Thank you.

MS. LOE: Any additional questions for this speaker?

MS. CARROLL: The reason --

MS. LOE: Ms. Carroll?

MS. CARROLL: Yeah. I suspect the reason why you can't have alcohol sales or a cigarette shop where Aroma Coffee House is is because you're planned development, which is the same zoning as this lot. What they're asking for is a change in zoning, and it's not so much that we're considering retail as a problem as it is, we'd like to have the opportunity to consider the retail given that the neighborhoods have been involved. They're asking for a zoning, that you don't have, and -- and that's why it's different.

MS. LOE: Any additional questions? I see none. Thank you.

MR. KARDON: My name is Tom Kardon, home address 4103 Hartfield Drive. My dad owns the property and I will represent him. The company we have is called goPuff. It's got over 100 stores in the U.S. He does not sell tobacco or alcohol. It's an online store. He provides an online service. You need to order ice cream, they will bring it to you. You want pasta, they will bring it to you. If you want coffee, they will bring it to you. If the coffee from the neighbor -- everybody is happy, they could do it -- they could order online. So, therefore, the traffic, it's not there. And also what I heard is tobacco and alcohol. He does not sell tobacco and alcohol. It's not open to the public. You are online. A long time ago when my dad built a store, I took over his business. I'm the owner of the repair shop now. He was planning for me to take and open a parts store with my brother, but that -- it never happened. So therefore, I took the business over and I can't operate both places. So what we're asking now is the existing tenant was there for ten years, and he can't afford to stay in business. So you guys want to promote growth, you guys want to provide jobs, it's not about alcohol, it's not about tobacco. It's an online convenience store that they deliver products -- baby diapers. What do you need? If you need something and they don't have it, and there's a service, like, let's say Gerbes, they don't have a delivery, they will deliver it to you. That's all it is. And imagine the people in the neighborhood that can get jobs. And there's not much traffic flow. When the student wants to order coffee because he's studying at 4:00 in the morning because he runs out of coffee, he gets on his phone like everybody else, he doesn't -- you know, he orders coffee, they take it to him. Where is the big deal? Where is the -- why are stuck at the tobacco and the alcohol here? And this is just an online convenience store which provides goods, nothing to do with that. It will create income, jobs, and revenue. There's a lot of people without a job right now. I have friends of mine with experience in those areas, and they can't get a job. So what are we promoting here, growth or not? Ask me that -- ask anything, you can ask me.

MS. LOE: Thank you, Mr. Kardon. Are there any questions for this speaker? Mr.

Stanton?

MR. STANTON: Sir?

MR. KARDON: Yeah?

MR. STANTON: It's not what you may currently do. We have to think -

MR. KARDON: Long term.

MR. STANTON: -- 20 and 50 years ahead of time. So we're worried about when you leave that spot, by giving you this particular zoning, what else can happen there. So we're not worried about you right now, right then. We're thinking 20, 30, or 50 years away from that.

MR. KARDON: Right. So -

MR. STANTON: So we're protecting the neighborhood from when you leave.

MR. KARDON: Right. Right.

MR. STANTON: Now maybe you don't, but maybe you have an opportunity that you can't refuse. We're protecting the neighborhood from that.

MR. KARDON: I understand that.

MR. STANTON: So a planned development like your neighbor had would -- would do that. You can tell us what you want to do, design it, we can work a deal, and everybody can be happy and we can guarantee that the fears of the neighbors that have been well documented over time would be protected.

MR. KARDON: Right. I understand that. And my answer to that is in order to get here, I had to ask a different zoning. Right? Basically, what I want, exception on the current zoning, plus just for the use for ten years. So therefore, your case is not valid because I'm not looking for the long term, but I can ask for the existing zoning, I have to go to the M-N. So basically what I'm asking is from what I've got, and to add an extra use, if that's possible.

MS. LOE: Ms. Carroll?

MS. CARROLL: That sounds like planned development to me, though. Can we not, as part of planned development, can you not apply to have that added to the use? Yeah.

MS. BACON: Yes, he could.

MS. CARROLL: That could still be done as planned development.

MR. KARDON: That's why we -- that's why we -- you know, MALY Real Estate works with me, so basically, that's what we were asking at the beginning. But he told me to, you know, to apply for M-N, so I did what I did. So, basically, what I'm asking is, I have the existing one, I have this company right now with a guaranteed contract to create jobs, to create income for ten years, and it's an online store. You add their use --

MS. LOE: So Ms. Bacon?

MS. BACON: Yes.

MS. LOE: Currently, the statement of intent identifies that professional business use involving sale or provisions of services, but not the sale or rental of goods. Could that be amended to add online sales?

MS. BACON: Not defined in our Code.

MR. ZENNER: Yeah. We do not define online sales in the Code, so the -- the operation that is currently there, which actually as a part of our review of this application and the current tenant, AQ Beauty Supply, it's a personal service. They have retail sales associated with the personal service that they are offering. And therefore, how this particular use that is in the structure has been permitted from a licensure perspective was found compliant is because it's a -- the retail sales is related to that personal service. What is being suggested here is actually a full retail use, which is currently not included. Yes, if the applicant were to come and ask to have the use list amended for retail, that is for general retail, that is a possibility. General retail would however include, not that this is what they're desiring, but it goes to Mr. Stanton's point, it would include tobacco, vape products, anything else that is sold at retail. So there is no control within that retail definition within our Code. Alcohol, alcoholic beverage sales is actually a principal permitted use in M-N, but it is a separate defined use, which means if the statement of intent weren't amended to include alcohol beverage sales, if an application came in to open up a liquor store, an Arena Liquor or a Circle Liquor store, we would likely, through a business license review, as a staff, deny that building -- deny that business license application even though it could be considered general -- alcohol could be considered general retail, but it is more specifically defined in our code.

MS. BACON: And I've pulled up the 2009 SOI if you have any specific questions about it at ready.

MS. LOE: The point here being that it seems from what Mr. Zenner just said that the statement of intent could be amended to include the use you say you're interested in using.

MR. KARDON: Right. Right. And we're just trying to -

MS. LOE: Okay. Mr. Stanton?

MR. STANTON: So my chairman is saying, basically, we want the PD protection. If we give M-N, it's like a wild, wild west.

MR. KARDON: I understand that.

MR. STANTON: We don't want that.

MR. KARDON: Okay. And that's --

MR. STANTON: That's why it was denied by staff. But the work will -- if you were

looking at maybe the -- the statement of intent being modified and then everybody is happy. But we have to -- we have to think long term.

MR. KARDON: Right.

MR. STANTON: We have to. We have to think hundreds, 50 years out.

MR. KARDON: Right.

MS. LOE: And we can work with you if you have a specific use, which it sounds like you do. It's when it's more speculative that it's more difficult to approach.

MR. KARDON: Right. But at the same time, that's what they advised me was, you know, go for the M-N basically. I had to -

MR. STANTON: It's probably more convenient, but not practical for us.

MR. KARDON: Yeah. Right. We can just add the use, basically, and proceed with

--

MR. STANTON: Hopefully. Yeah.

MS. CARROLL: Yeah.

MR. KARDON: That's, you know --

MS. LOE: Let's see if staff has any advice.

MR. ZENNER: We are -- we are working a solution for you, as you speak, so you all know how we operate.

MS. LOE: We're trying to buy you some time here with our -

MR. ZENNER: Thank you. I greatly appreciate that. We group think over in this corner. So the applicant is asking for a less restrictive zoning designation on this property at this point. We have advertised for something less restrictive. An amendment of their existing statement of intent to include a general retail use would be an option to consider at this venue, before this body, through this advertising. That would be an amended application that we would just forward to City Council with your recommendation. I think what we would advise, and this is what Mr. Caldera and I were talking about. As I pointed out just a moment ago, alcoholic beverage sales, and this would not be associated with a restaurant, for example, it would be package sales, is a defined use within the use table, in our permitted use table. We would probably, however, as we have done previously, with this particular property, the original designation on this property was restricted to a single land use, as you probably identified in your staff report, to an auto parts store. Back in the day before we adopted the UDC, that was the tactic that we normally took. We would eliminate everything out and put a single use on the property. While we have gravitated away from that, there is nothing to state that we can further refine a use restriction through an existing planned district. So we're -- and what Mr. Caldera and I were talking about is, is by default, while we would say retail

sales, because alcoholic beverage sales is singled out as its own land use, if it was not included in their statement of intent, it would by default be considered not permitted. To make that emphatically clear, however, we could indicate retail sales with the exception of alcoholic beverage sales to clearly indicate that the intention here was to eliminate that. Cigarette or tobacco sales, unfortunately, because it is not listed within the Code as a separate land use, we would not be able to restrict. And at that point, that is where you would end up with a little bit of the gap maybe of adding full protections, if that is what the Commission is indicating. So -- and that may -- that's a lot of information to be presenting here and dropping on the applicant at this point as to how this may impact their proposal. They may choose that they want to have a little bit of additional time to discuss this with our staff. What I can tell you is that if what I'm understanding Mr. Kardon, on behalf of his father, respectfully requesting that the Commission do, the opening of just general retail sales with no change to the building, so we have all of the exact same design parameters associated to it or have the same restricted hours, but just adding the use, based on what I'm understanding I'm hearing this evening, that would accommodate them, and then given the model that they are proposing to implement for their purposes at this point, a restriction of alcoholic beverage sales as an add-on to retail sales would gain protection for moving forward should the Kardons decide to sell the property or open it up for someone else in the future to operate a business there, but it would clearly indicate to the public that you never wanted a bar, you never wanted alcoholic sales on this property, which is what the current provisions contain as restrictions because they're not permitted uses, and I think we can move the item forward. But that is if the applicant is comfortable with doing so and getting the retail component that they're really wanting, and if that's not clear to them, we're more than happy to come back and discuss this and bring it back on the 23's agenda. Or if the Commission is not comfortable with that, we could do that, as well.

MS. LOE: Mr. Strodtman?

MR. STRODTMAN: Mr. Zenner, the only thing I would maybe caution -- or maybe caution Mr. Kardon is when I go to the website of goPuff, they do sell alcohol on the website. Now, that may be they're going to change it. It's packaged and it's only online, so maybe you could word it or change it where package alcohol that's ordered and delivered -- or on the website it has goBooze.

MR. KARDON: Yeah.

MR. STRODTMAN: And you click on that, it has wine and -

MR. ZENNER: Ms. Bacon brought that to my attention. I think bottom line is, you have to likely get a retail sales license for alcohol in addition to a general retail license,

which would be required to go through an evaluation process to ensure that it met the separation requirement from the school. That is likely going to come through our business licensing process, so we would likely not allow that. Again, I think what we want to be clear about, if that is a concern of the Commission, while it is part of their -- their national web chain, the website, that may not be how the independent operators are operating their businesses. They may have the opportunity to choose what products they sell. So a restriction to the package liquor sales is clearly a way of being able to do that. Now package liquor sales is different, of course, from that that would occur if they should choose to utilize the property and convert it to a restaurant that has liquor sales as part of meal service. So a restaurant with alcoholic sales would be still permitted. A bar or a nightclub, which is -- is prohibited without a conditional use approval. So that is what the -- I think when we look at what Aroma may have been recalling, that is the restriction in M-N. So a bar or a nightclub would not be permitted there without going through additional review. So I would suggest, if the Commission is amenable to amending just the statement of intent at this point, it is a more restrictive action, therefore, procedurally, you could do that. That is, of course, if the applicant is comfortable with that movement and the Commission is, as well. And, again, we would recommend adding retail sales excluding alcoholic beverage sales.

MR. CALDERA: I do want to stress the last part of Mr. Zenner's statement there. This is ultimately the applicant's choice. If he chooses to proceed with the current request, then, ultimately, you have to make a decision on that. However, if he's amenable to this more restrictive approach, then that's something you can do because it is more restrictive.

MR. STRODTMAN: My last comment, Mr. Kardon, is make sure that your potential tenant understands that the package liquor may not be an option.

MR. KARDON: Right. He knows that. They know that.

MR. STRODTMAN: Okay. I'm just saying, because the website does not -

MR. KARDON: If you scroll -- if you Google it and you scroll down, it says not all locations sells alcohol, so -

MR. STRODTMAN: Just making sure you understand that.

MR. KARDON: Well, they won't -- they won't propose a contract when they know the school is across the street. It does not make sense. You have to be 500 feet away from a school; right -- or a distance?

MR. STRODTMAN: One hundred. One hundred.

MR. KARDON: One hundred, which it is not.

MS. LOE: Ms. Burns?

MS. BURNS: And I don't know, Mr. Strodman. So does your -- sir, Mr. Kardon, does your business operate 24 hours a day?

MR. KARDON: Mine? No.

MS. BURNS: The business that would be here?

MR. KARDON: They deliver 24 hours.

MS. BURNS: So they -- would trips -- trips be generating out of this particular -

MR. KARDON: Generating. The night shift will be -- probably less, the day shift will be more.

MS. BURNS: So you gave the example of a student ordering a cup of coffee at 4:00 in the morning?

MR. KARDON: Yeah. I mean -

MS. BURNS: So a car might be exiting your building at 4:00 in the morning, driving to get the desired product for your person who was placing an order?

MR. KARDON: They understood that they have what they have in stock, because they will have freezers inside, you know, or if you want chicken, whatever you need, basically. If they have outsourced it from somewhere else, they'll go pick it up and just deliver it to you.

MS. BURNS: I guess this, just in my mind, I'd like more time to think about this, is - I don't know if the neighbors understood about trip generation 24 hours a day. I'm looking at the map here, and I'm looking at the properties where your vehicles might be entering and existing, and lights flashing in their cars -- not your -- the business who would operate out of the building.

MR. KARDON: Well, you're saying about lights flashing. Right?

MS. BURNS: I'm saying headlights flashing in windows.

MR. KARDON: Right. When you pull in, there's no houses around it. When people -- when you pull from the Providence into the parking lot, you're not flashing anything.

MS. BURNS: Okay. Thank you.

MR. KARDON: When you pull into the parking lot, you're not flashing anything. When you exit the building, you're seeing the baseball field from Hickman High School. There's no houses.

MS. CARROLL: I thought you exited on -

MS. LOE: Ms. Russell? Ms. Russell?

MR. KARDON: And not always there's going to be traffic flow.

MS. RUSSELL: A couple of questions. If the applicant is amenable to the SOI amendment, do we need two motions, one to deny and then two to approve an SOI? And then a third question, if we feel like we need more time to do this, we have the authority

to table this. Correct? Okay. Thank you.

MS. LOE: Ms. Carroll, did you have a question?

MS. CARROLL: I thought the exit of the parking lot was on Third Avenue. Am I remembering that right?

MR. KARDON: Well, the entrance is from the Third Avenue and the exit. A lot of people use it from the Third Avenue. Otherwise, you have to go through the alley.

MS. CARROLL: I think I exited Third Avenue when I drove it.

MS. LOE: Any additional questions? Mr. Stanton?

MR. STANTON: So are you open to the amendment to the SOI?

MS. LOE: Statement of intent.

MR. STANTON: Statement of intent, meaning we change the scope of what you can put there and you abandon the M-N zoning.

MR. KARDON: Right. Right.

MR. STANTON: Or are you sticking to your guns and your own opinion?

MR. KARDON: Right. Right now, what we have -- we have an existing contract in effect, and we need to add that use.

MR. STANTON: Okay. So you're willing to abandon M-N -

MR. KARDON: Yes.

MR. STANTON: -- and amend what you've got? I'm trying to get that clear because that's going to be where my voting is -

MR. KARDON: What do you mean, what I've got? What I've got existingwise?

MS. LOE: Well, are there any -- any additional discussion?

MR. KARDON: Zoning? You mean existingwise zoning, or you mean we're just adding an option?

MR. STANTON: Right now, you're asking to get an M-N zoning. You're wanting to change your zoning from what you have to M-N.

MR. KARDON: Right.

MR. STANTON: We're suggesting that you keep what you've got and change the list of things that you can do with what you've got.

MR. KARDON: Right.

MR. STANTON: Are you willing to do that or are you going to stick to your guns with M-N?

MR. KARDON: No. We're going -- we're going to change it just to get those guys in.

MS. LOE: Okay. So we would change -- we are changing the proposal to change the statement of intent to add general retail sales, excluding alcoholic sales?

MR. KARDON: Right. Tobacco.

MS. LOE: I don't think we can exclude tobacco.

MR. ZENNER: That could be -

MS. LOE: That gets -- that comes in with general retail.

MR. KARDON: Okay.

MR. ZENNER: And that could be a private restriction as it relates to any tenant that may occupy their structure if they wanted to create a legal document that said that these are the permitted uses. That's a private -- private contractual matter.

MS. LOE: That would be between you and your tenant. We wouldn't do that at the City level.

MR. ZENNER: Again, and I think the one thing that we have to point out is, just so Mr. Kardon is aware of this, as well as any other property owners that may be adjoining, an amendment to the statement of intent is to amend only the permitted land use. What we have heard here just momentarily ago is that the potential client, the tenant that would be occupying this facility wants to operate 24 hours a day, the current statement of intent limits hours of operation from 7:00 a.m. to 7:00 p.m. I want to make that very clear, we are not amending that as a part of what -- any motion that you would be making, and that may be a determining factor for Mr. Kardon that if their contract is such that this operator wants a 24-hour operation, they are not going to have it here. We will not, if you abandon your M-N request which is to open up the zoning with no restrictions, if you abandon that and you go to the amendment of your uses that you are allowed to have, they're going to be restricted to a 12-hour operation window.

MR. KARDON: Well, like I said, Mel is -- the real estate agent is not here tonight. He was supposed to be here because I -- he knows more of the details of what they want to propose, because I haven't seen the contract yet.

MR. ZENNER: Mr. Kardon, would you be willing then, at that point, given that Mr. Zelenek is not here this evening, would you be willing to table this for two weeks to allow Mr. Zelenek to attend the next Planning and Zoning Commission meeting and potentially have any questions, as it relates to what is being discussed?

MR. KARDON: That way, he can clarify, because, like I said, he called me today, he was supposed to be here, he didn't show up. I called him. I have no other details. What I know is what I read in the past and what I saw online, and he told me there's no alcohol, there's no tobacco sales, but I'm -- I don't know about the hours of operation. Are they 24/7, like most of them, or with restrictions, I don't know that. If he was here, actually, he was supposed to call somebody.

MS. BACON: He called me, yeah. We did speak about it today.

MR. KARDON: And what did he say about the hours?

MS. BACON: He didn't say anything about hours. He did say that at some of their locations, they have tobacco and alcohol, but they were not planning on having tobacco and alcohol at this location given the proximity of the school.

MR. KARDON: Because -

MS. BACON: I think the staff might be amenable to maybe looking at the hours of operation of the coffee shop, since you did approve that recently through a public process, but I don't know that we would be able to support 24 hours in this location.

MR. KARDON: Because I thought, you know, because -- since we got here, you never specified and say that -- you were saying all the time tobacco and alcohol, and you already knew that they won't be any use, so why not say it from the beginning?

MS. BACON: Because there could be. I can't restrict it. So there's -- we all have good intentions.

MR. KARDON: But he told you, you know.

MS. BACON: And that was today that he told me that. It wasn't prior.

MR. KARDON: Right. Right. And he was supposed to be here tonight. The only thing I don't know is the hours they work. If they're 24/7 like everybody else or not.

MS. LOE: Mr. Zenner, would Mr. Kardon need to request tabling this at this point -- or we would. Okay. So, Mr. Kardon, based on the fact that this does seem to be more -- okay -- more complicated. There's more than just the use, there's also the hours. Are you amenable to tabling this for two weeks?

MR. KARDON: Yeah. And I can bring a contract signed by that time probably, pending on that, with the hours of operation.

MS. LOE: All right. So we're going -

MR. KARDON: That way, we're clear from the beginning to the end.

MS. LOE: -- make a motion to table your case for two weeks. What's the date on that?

MR. ZENNER: It will be January 23rd.

MS. LOE: All right. Ms. Russell?

MS. RUSSELL: Is the public hearing closed?

MS. LOE: Oh. This is a good point. Mr. Kardon - are there any more questions for this speaker? I see none. Thank you, Mr. Kardon.

MR. KARDON: My name is Thomas Kardon. I live on 1206 Coats Street. I started this building years ago. I've been zoning this building 18 times. This is the 18th time. So it was a lot of difference then to build a building. And everybody talk about alcohol or tobacco and stuff like that. The shop I work on it, it's the Tom's Import, 1206 Coats Street, across the street from Auto Zone. Front of me, I've three bars, and I have

problems for 40 years with those guys. I have to clean the garbage, I have to clean the bottles, I have to do all the stuff for them. Even if this building allowed for alcohol and tobacco, I say no. Empty, vacant, but no -- no bars or alcohol or anything. But across the street from the school, you're not allowed to sell the stuff. And this -- this guy at the real estate told me they don't sell alcohol. And I asked him last time what time they're going to open, he says normal hours like you do, 8:00 to 6:00. That's what he said. I said how long they're going to open? He said how long do you open? Just normal hours, that's what he told me. And he was supposed to be here. And the M-N, I put them in there, I didn't put them on to change things. I'm getting close to retire, okay, and I don't want to come anytime somebody come and rent the building again, I have to be here. So the building they talk about, if somebody sell it, this building will never be for sale. After I die and my wife die, for 50 years, they're not allowed to sell the building because the building has got a history. I talk to my daughter quite a few times. She's a teacher. I said write a book about this building and the zoning. She said what do you want me to put? I said put something else, not zoned by the Greek, but come the Greek, because those columns I put under there, those are special columns we ordered for Texas. We didn't get them from Greece. These are Corinthian columns, and the original building when I tried to build it didn't look like this. They put me to put the L. I didn't like it, I didn't want it. The first plan shows ten columns in the front, four on each side, and it looked nice, and everybody is going to come and say this building, some Greek built it. It cost more, but it's -- it was nice plans to do. The way it is now, I didn't like it, but it looks good. The building itself is 14 feet high. Nobody want that area, the Providence area, it's going to be some day M-N. I want them to put M-N. I don't want to come back here again. Just -- I'm getting tired to -- to go, so that's the only reasons. So the Providence area there, I see so many open lots. I don't like that. When people going to the games, they go through that street. What they want to see, junky houses hanging, falling apart or a nice building? Nobody is going to build it like we built it, nobody. If I would have had the zoning, that building would be a lot of difference today. They're more expensive, yes. And we talk about property tax. I was paying \$72 tax for ten years. After I put the building, the City gets \$9,114, and I never complain. The City needs the money, we need police protection, we need the tax. I never complain. But the thing is I got five more years to pay off the building. I have two choices. Work five more years, which no doubt I have to, sometimes, or to pay the bank. If you pay the bank, and you pay the City, three month's rent, the city gets it. The rest of them, the bank gets them. I have to pay for the insurance, so I have to work to support the building. So I cannot afford to have the building open. It's not going to change anything if this guy sells stuff like this.

It's going to be -- it's not going to be today. It's going to be 20 years from now, no later than, it's going to be like that. It's not going to change anything if somebody sells -- this guy will be there for ten years. And nobody have any problems with those guys. I take care of the land. I like the flowers, I like all the trees, all the stuff, but the City five years ago, they called me, they say, Tom, both corners from the alley, we've got access to the alley and to the Third Avenue, they make me cut those trees. So why? Because they blinded you. And I cut a lot of trees. If you see those trees now, I just cut them a year ago. And I try a little of the time, they're coming back, they say, Tom, you're going to cut these trees, and you're going -- I cut a lot of them. I cut them too short, but a year later, it goes back up again. So I take care of the building. And I love this building. I take care of it. Every side, I go water the flowers, the roses, all the stuff in there. I not let the thing fall apart. You know, some people say, oh, you're going to rezone, you can sell it. It's not going to be for sale. Now, I heard here somebody is buy or sell it. No. My grandkids are going to sell it.

MS. LOE: Well, I think --

MR. KARDON: But these boys -- my boys -- I got two boys and a daughter, they're not going to have -- who knows how long I'm going to live. See, the Greek lives long time. Average Greek lives 78 years. Some of my aunts live 98 years. So I can work. I don't have no problem to pay, but we didn't ask too much. We just ask to put somebody in there and help me with the payments. That's it.

MS. LOE: And I think we're working on some options that will compromise -- it may be a bit of a compromise, but hopefully we'll help you get someone in that building. So it sounds like your son was amenable to the two-week extension -

MR. KARDON: Yeah. That would be fine.

MS. LOE: -- to -- all right.

MR. KARDON: Yeah. That's fine.

MS. LOE: So we're going to vote on that, if there aren't any more speakers. Are there any questions for this speaker? I see none at this time. Thank you for coming up.

MR. KARDON: Thank you.

MS. LOE: Are there any more speakers on this case? Seeing none, we're going to close the public hearing.

PUBLIC HEARING CLOSED

MS. LOE: Commissioner discussion? Ms. Russell?

MS. RUSSELL: Well, I'm going to make a motion, but I would also like to request that staff reach out to the owners so that they completely understand the options and what we're recommending. In that case with regards to Case 28-2020, I move to table to

the January 23rd Commission meeting.

MR. STANTON: Second.

MS. LOE: Second by Mr. Stanton. We have a motion on the floor. Any discussion on that motion? Seeing none -- oh. Mr. Toohey?

MR. TOOHEY: So I will say this. I mean, I look at this project or I look at this request, and to me it makes perfect sense for M-N. I mean, part of the zoning code was so that we would eliminate some of these planned developments and the owner of a property had a better idea of what they could and couldn't do with the property so they wouldn't have to keep coming back here making these types of requests. When you look M-N, other than that ten-foot setback, I mean, that's exactly what M-N is. And so if this was even built to M-N stipulations, the neighbors would hate this even worse because it would have to have that ten-foot setback, which means the front of the building would actually have to be on Providence, and so you would have more traffic in the neighborhood. So I actually think this is actually really appropriate for M-N, so I will support the tabling, but I really think this is a slam-dunk, no-brainer to be M-N.

MS. LOE: Any additional comments. Ms. Carroll?

MS. CARROLL: If we gave them M-N, later somebody could build it. If they wanted to develop this later, the next property that was here would have that ten-foot setback and the traffic that the neighbors would dislike even more though. And that's part of the consideration.

MS. LOE: Any additional comments? Seeing none. Ms. Burns?

MS. BURNS: Yes.

Roll Call Vote (Voting "yes" is to recommend approval.) Voting Yes: Ms.

Rushing,

Ms. Russell, Mr. Toohey, Ms. Burns, Ms. Carroll, Ms. Loe, Mr. Stanton, Mr.

Strodtman. Motion carries 8-0.

MS. BURNS: Eight to zero, motion carries.

MS. LOE: Recommendation for tabling will be completed. You will see us again in two weeks. Thank you for that discussion.

Move to table to the January 23rd Commission meeting.

Yes: 8 - Burns, Loe, Rushing, Russell, Stanton, Strodtman, Toohey and Carroll

Excused: 1 - MacMann

Case # 34-2020

A request by Haden & Colbert (agent), on behalf of Elizabeth Cully (owner), to assign M-C (Mixed-use Corridor) zoning, upon annexation, to a tract of land containing 1.46 acres and located approximately 750 feet east of the intersection of I-70 Drive SE and Upland Creek Road. The subject property is addressed 5300 I-70 Drive SE.

MS. LOE: May we have a staff report, please?

Staff report was given by Ms. Rachel Bacon of the Planning and Development Department. Staff recommends denial of the requested assignment of M-C zoning upon annexation.

MS. LOE: Thank you, Ms. Bacon. Before we ask for Commissioner questions, I would like to ask Commissioners if they have had any ex parte on this case to please share that so we all that information in front of us to consider. Seeing none. Are there any questions for Ms. Bacon? I see none. Thank you. In that case, we're going to open up the public hearing for this case.

PUBLIC HEARING OPENED

MS. LOE: If you can please give your name and address for the record. You'll have three minutes, and six minutes if you're representing a group.

MR. COLBERT: Good evening, Commissioners. Caleb Colbert, attorney, at 827 East Broadway. I'm here tonight on behalf of the applicant. We've just combined our presentations for both parcels into one presentation. I understand there will be two separate staff reports and two votes, but we are essentially going to take this opportunity to talk about both properties. So just to give you a little -- a little background on the property. It is owned by Elizabeth Cully. She does own both parcels. She's owned those since 1987. She is not a developer, not a, you know, real estate investor. She has owned those essentially and used those for a charitable purpose. She used the house that is on the tract to provide sort of temporary short-term housing for folks that were down on their luck or lower income to provide them kind of an opportunity to get on their feet. The house is currently vacant, not occupied, and has suffered some damage recently, which makes it difficult to occupy. Ms. Cully has reached a point where she has decided to retire and to essentially do something with this property as part of sort of some estate planning type affairs. But when we decided we were going to do something with this property, again, the north parcel is in the City limits and zoned -- or, excuse me. The north parcel is in the City and zoned R-1, the south parcel is the piece we're trying to annex. That makes it difficult to sell to any one buyer. It is one lot. It is -- essentially, the City annexed the parcel along I-70 to bring the commercial property into the City

limits, or what might be commercial property into the City limits, and so that created sort of a one lot that was part in the City, part not in the City. So we started to look at zoning would be appropriate for this property. Right out of the gate, the two mixed-use commercial zoning districts, you have corridor and you have neighborhood. You look at the purpose of corridor zoning. It's to provide commercial uses that are automobile oriented in an area that has high traffic visibility -- high visibility from a highway. The purpose of neighborhood zoning is intended to provide commercial services that are walkable. In other words, you're serving an existing residential neighborhood that, on a small scale, retail level. In our view, this property fits the characterization and the purpose of the corridor zoning better than a neighborhood. Again, the property is on the I-70 corridor. Our north property line on the north parcel is the I-70 right-of-way. There is no zoning north of us because it's the I-70 corridor. Other properties, as was mentioned in the staff report, along I-70 are either M-C -- if you go further west, they're I-G. You have planned zoning that allows commercial uses. And then the properties to the west of us are agricultural, but those were essentially placeholders when those properties were annexed. Again, we touched a little bit on the zoning. Here is the -- the county zoning. Everything to the southeast of us is some version of commercial with the exception of that one single family residential parcel. City zoning, if you zoom out a little bit, this tells a pretty good story. Everything that is along the outer road to the west of us, you see the strip there that is M-C. All we're asking to do is carry that dark red line to the east along the outer road. It's the exact same corridor. We're asking for the same zoning that is along the outer road east of St. Charles Road, it's west of the Upland Creek on the west side. We don't believe that this is in any way incompatible with the way other parcels have been treated along the I-70 corridor. The one comment I want to follow up on the East Area Plan. Obviously, the East Area Plan is a guiding document, it doesn't list specific properties and advise what those -- it doesn't go by boundary lines or lot lines. It's essentially a circle on a map that someone has suggested that's an appropriate land use for the area -- or that area. I wanted to zoom in a little bit here. That staff report indicates that we're on the west side or in the yellow residential. We respectfully disagree with that. There is really only one landmark that you can go off of. If you look at that map, on the north side of 70, there is a north-south street. See that white line that there's a loop on the north end. So everything directly south of that north-south street is in the red commercial zoning district; right. If you just follow it, if you follow that line down. So if you follow that line directly, there is that street. If you follow that directly down, we are directly south of that north-south street and we are within the red commercial zoning district in the East Area Plan. In fact, if you zoom in, the driveway for

this property is east of that north-south street. We are clearly without question within that commercial zoning classification in the East Area Plan. So just to kind of wrap things up, we look at this. It's just a question of what zoning is appropriate for this area. We believe you're on the interstate, there's a high degree of traffic that passes this property. There's a high degree of visibility. It is a corridor. In fact, the staff report refers to the Interstate 70 as an interstate corridor. If a buffer is required, obviously the Unified Development Code has new neighborhood protection standards. It has landscaping and screening requirements. And, in fact, going back to the aerial, you'll see that the area is heavily wooded. That, in and of itself, provides a natural buffer. Finally, we don't believe that a buffer is absolutely required. To go back to the planned zoning, why did we have that planned zoning? To buffer someone. And who was supposed to be buffered? Our property. We don't want to be buffered. We would have been perfectly fine if that had been zoned open commercial. So that is one failure of the planned zoning is you're trying to buffer folks that do not want to be buffered. And I'll be happy to answer any questions.

MS. LOE: Thank you, Mr. Colbert. Are there any questions for this speaker? I had a question. You appeared to indicate that this was one parcel?

MR. COLBERT: Yes. So -

MS. LOE: However, our reports indicate that we are discussing a 1.46-acre parcel and a 1.06-acre parcel.

MR. COLBERT: In our deed from 1987, it is one legal description.

MS. LOE: And it currently is one legal parcel?

MR. COLBERT: Yeah. It has two different tax ID numbers because part of it is in the City limits and taxed as being in the City, part of it is in the county. So the assessor's website identifies it as two separate tax parcels, but it is one legal lot.

MS. LOE: Thank you.

MR. COLBERT: Thank you.

MR. JOHN: My name is John John. I'm a real estate agent with offices at 33 East Broadway. I am here to talk for Ms. Cully. I am not her registered agent. I'm not a listing agent for her. She came in and asked for advice and I have offered it to her. I actually am the listing agent for the piece to the west -- or to the east of it. And the only reason that became a planned development was because we didn't have a Uniform Development Code at the time that was rezoned by the Wehmeyers before they lost it to the FDIC, and they were forced to put it that way because that was the only option available to them. They either did planned or they didn't get it zoned. This piece -- but let's go back a little further. Let's go back to 1969. The annexation of the front of this property, the 200-foot strip- across the front of this property was done by the City of

Columbia. The entire strip along there was part of the largest annexation and the last forced annexation done by the City of Columbia because the City of Columbia wanted to grow. And they took all the strips along I-70 because they wanted that commercial frontage along I-70 because they wanted it to be commercial and they wanted it in the City of Columbia. It's been 50 years they wanted commercial zoning on this property. They took the front part of it. It all came in because it was unused. Every piece that came in came in, unless there had a specific use on it, as agricultural. The owner could then come forward and ask for some change, or if they had a use on it, the City negotiated with them as it was annexed in. It actually was platted just before it came into the City limits, so it is one lot. It is two tax parcels. It has two zonings on it, the county and the city. It is facing the corridor of I-70. There are -- a couple of the other arguments that it is too soon to determine. It's been in the City for 50 years. It's an isolated piece. The City has gone two miles to the east of this, two miles to the south, two miles to the north. This is an isolated leftover piece. It's time to just say, hey, let's get this done. Let's get this moving on. The owner or whoever buys this from Ms. Cully will have to bring sewer to it because there isn't really decent sewer to it. It's up in the back near the back edge. The water line will have to come from Public Water District #9, because the City doesn't have water in this area, and we will have to bring commercially zoned capable water to it. We understand these things, and we'll probably have to do quite a bit of grade work on it. Those costs we understand. Those costs that we would incur would not be viable for an M-N neighborhood or office zoning. There's plenty of office property around. There's plenty of commercial property around; M-N, M-C, M-O, whatever. The problem -- the difference is that this is a small piece. It is front set I-70. Most of those tracts out there are large, very expensive, very large. A lot of them, you'll see the dash lines on. Those dash lines are all planned development, and we had a discussion about planned development earlier, so I won't get into that. That's why a lot of them are still sitting because the planned development makes them hard to work with. It's not that there are just too many tracts. There are a lot of tracts, but most of them are too large, too expensive, and over planned. And I see the little red light going on.

MS. LOE: Are there any questions for Mr. John? I see none. Thank you. Are there any additional speakers on this case? Seeing none, we'll close the public hearing.

PUBLIC HEARING CLOSED

MS. LOE: Commission discussion? I have a question for staff. Checking the Boone County Assessor's site, it does appear to be one parcel. Two zonings -- or they're asking for a single zoning, I guess, so -- yeah.

MS. BACON: They have to.

MR. ZENNER: They have to ask for -- the application is being processed properly. Irrespective of how the parcel may show up, you have an annexation parcel, which has a legal description which must be brought into the City of Columbia, and the City parcel, which is currently zoned agricultural has a legal description on it which will ultimately have to be rezoned, as well. This does not show in our records that it is a platted parcel. It is a surveyed parcel, which, to the points that Ms. Bacon made, it is not -- potentially is not considered a legal lot. The ag portion of it may be considered a legal lot under the definition, however, if development is desired for the tract as a whole, it will need to be platted as a single legal lot on a recorded plat, not a survey. So the procedure that we are going through here is a proper legal procedure, and it is really irrelevant as to how the 1987 deed reads. You have split-zoned and split-jurisdictional property and therefore, it does need to be handled as two separate cases and processed as we are processing it tonight.

MS. LOE: Thank you. Any additional comments? Ms. Russell?

MS. RUSSELL: I'm going to make a motion. In the case of 34-2020, I'm going to move to approve the requested assignment of M-C zoning upon annexation.

MR. STRODTMAN: Second.

MS. LOE: Mr. Strodtman, second. We have a motion on the floor. Any discussion on that motion? Seeing none. Ms. Burns, may we have roll call, please.

MS. BURNS: Yes.

Roll Call Vote (Voting "yes" is to recommend approval.) Voting Yes: Ms.

Rushing,

Ms. Russell, Mr. Toohey, Ms. Burns, Ms. Carroll, Mr. Stanton, Mr. Strodtman.

Voting No:

Ms. Loe. Motion carries 7-1.

MS. BURNS: Seven to one, motion carries.

MS. LOE: Recommendation for approval will be forwarded to City Council. That brings us to our next case, which is a request by Anderson Engineering on behalf of Discovery --

MS. RUSSELL: No. You are missing --

MS. LOE: Sorry. Sorry.

Move to approve the requested assignment of M-C zoning upon annexation.

Yes: 7 - Burns, Rushing, Russell, Stanton, Strodtman, Toohey and Carroll

No: 1 - Loe

Excused: 1 - MacMann

Case # 37-2020

A request by Haden & Colbert (agent), on behalf of Elizabeth Cully (owner), for approval to rezone property addressed as 5300 I-70 Drive SE from A (Agriculture) to M-C (Mixed-use Corridor). The approximate 1.06-acre site has frontage on the south side of I-70 Drive SE and is approximately 750 feet east of the intersection of I-70 Drive SE and Upland Creek Road.

MS. LOE: May we have a report continuation, please.

Staff report was given by Ms. Rachel Bacon of the Planning and Development Department. Staff recommends denial of the M-C zoning map amendment.

MS. LOE: Thank you, Ms. Bacon. Are there any questions -- well, before -- do I have to re-read the ex parte again? Ex parte. If any Commissioners have had any ex parte on this case, if they would share that with the rest of the Commission so we have the same information in front of us. Seeing none. Are there any questions for Ms. Bacon? I see none. In which case, we'll open public comments again.

PUBLIC HEARING OPENED

MS. LOE: There is no one coming forward. We will close public comments.

PUBLIC HEARING CLOSED

MS. LOE: Commission discussion? Ms. Russell? Mr. Strodtman?

MR. STRODTMAN: Oh, no. I was coughing. I'm sorry. But I can -- go ahead.

MS. RUSSELL: Okay. Well, I'll go ahead and make a motion. In the case of 37-2020, I'm going to move to approve the M-C zoning map amendment.

MR. STANTON: Second.

MS. LOE: Second by Mr. Stanton. We have a motion on the floor. Any discussion on that motion? Just to explain my no vote in the last one, and I will also vote no on this one is I do believe that M-N is more appropriate adjacent to the residential even though I understand there is M-C in the area, because of the adjacencies, I do believe M-N is more appropriate. Any additional comments? Seeing none. Ms. Burns, may we have roll call, please.

MS. BURNS: Yes.

Roll Call Vote (Voting "yes" is to recommend approval. Voting Yes: Ms.

Rushing,

Ms. Russell, Mr. Toohey, Ms. Burns, Ms. Carroll, Mr. Stanton, Mr. Strodtman.

Voting No:

Ms. Loe.

Motion carries 7-1.

MS. BURNS: Seven to one, motion carries.

MS. LOE: Recommendation for approval will be forwarded to City Council. Now we come to Case 38-2020.

Move to approve the M-C zoning map amendment.

Yes: 8 - Burns, Rushing, Russell, Stanton, Strodman, Toohey, MacMann and Carroll

No: 1 - Loe

Case # 38-2020

A request by Anderson Engineering (agent), on behalf of Discovery Park Apartments, LLC (owner), for a PD Plan (Planned Development) amendment to the *Discovery Park Subdivision Plat 4 PD Plan*, with the most recent version administratively approved 6/11/2018, to reconfigure the layout of the dwelling units that have not yet been constructed. The 12.92-acre property is located on the west side of Nocona Parkway, approximately 1,500 feet south of Ponderosa Street.

MS. LOE: May we have a staff report, please?

Staff report was given by Mr. Clint Smith of the Planning and Development Department. Staff recommends approval of the requested major amendment to the Discovery Park Subdivision Plat 4 PD Plan.

MS. LOE: Thank you, Mr. Smith. Before we move to Commissioner questions, I would like to ask any Commissioner who has comments for any ex parte they would like to share with the rest of the Commission so we have that information before us on behalf of this case? Mr. Stanton?

MR. STANTON: As it relates to the previous case, 25-2020, I'm going to recuse myself from this case as well.

MS. LOE: Thank you, Mr. Stanton. Any additional comments or ex parte? Seeing none. Are there any questions for staff? Mr. Strodman?

MR. STRODTMAN: I've got a minor one. You mentioned parking. I was kind of under the impression that the -- there was parking in these little exterior buildings, but you may be reference parking underneath the building?

MR. SMITH: Correct.

MR. STRODTMAN: So the little configurations that just highlighting parking is something different, like handicap or -

MR. SMITH: These areas will be -- I believe those are also covered parking, but they are detached.

MR. STRODTMAN: Okay. So additional parking covered.

MR. SMITH: So it would be carports, garages, that sort of thing.

MR. STRODTMAN: Okay.

MR. SMITH: And there are a few of those currently built as well.

MR. STRODTMAN: Right. Thank you.

MS. LOE: Any additional questions for staff? Seeing none, we will open up the public comment portion -- session.

PUBLIC HEARING OPENED

MS. LOE: And please give you name and address for the record.

MR. WOOTEN: Tom Wooten with Anderson Engineering, 4240 Philips Farm Road, Columbia. And just to further clarify, yeah, the smaller shaded structures are detached garages. The primary buildings each do have single -- well, depending on which units they are, one-, two-, three-bedroom and so forth, there are garage parking stalls on the main level in addition to the surface parking that you see.

MS. LOE: Any additional questions for Mr. Wooten? I see none. Thank you.

MR. WOOTEN: Thank you.

MS. LOE: Any additional speakers? I see none. We'll close the public hearing session.

PUBLIC HEARING CLOSED

MS. LOE: Commission discussion? Mr. Strodtman?

MR. STRODTMAN: I'll make a motion if there's no further discussion. Related to Case 38-2020, Discovery Park Subdivision Plat 4 PD Plan major amendment, I make a recommendation for approval of a major amendment to Discovery Park Subdivision Plat 4 PD Plan.

MS. RUSHING: Second.

MS. LOE: Second by Ms. Rushing. We have a motion on the floor. Any discussion on that motion? I see none. Ms. Burns, may we have roll call, please.

MS. BURNS: Yes.

Roll Call Vote (Voting "yes" is to recommend approval.) Voting Yes: Ms.

Rushing, Ms. Russell, Mr. Toohey, Ms. Burns, Ms. Carroll, Ms. Loe, Mr. Strodtman.

Motion carries 7-0.

MS. BURNS: Seven to zero, motion carries.

MS. LOE: Thank you, Ms. Burns. Recommendation for approval will be forwarded to City Council. That brings us to our final case for the evening.

Recommendation for approval of a major amendment to Discovery Park Subdivision Plat 4 PD Plan.

Yes: 7 - Burns, Loe, Rushing, Russell, Strodtman, Toohey and Carroll

Excused: 1 - MacMann

Recused: 1 - Stanton

Case # 39-2020

A request by A Civil Group (agent), on behalf of Columbia Housing Authority (owner), for approval to rezone property addressed as 201 Switzler Street that includes an O-P development plan known as *Administrative Building for the Housing Authority of the City of Columbia*, from PD (Planned Development) to M-OF (Mixed-use Office) to remove PD requirements, and to rezone property addressed as 209 Switzler from R-MF (Multi-family Residential) to M-OF (Mixed-use Office) to allow for construction of an office building. The subject site is located at the northeast corner of Switzler Street and Trinity Place.

MS. LOE: May we have a staff report, please.

Staff report was given by Mr. Clint Smith of the Planning and Development Department. Staff recommends approval of the requested rezoning of 201 Switzler from PD to M-OF and 209 Switzler from R-MF to M-OF.

MS. LOE: Thank you, Mr. Smith. Before we move to the Commissioner questions, are there any Commissioners who have any ex parte they would like to share with the rest of the Commission so we all have the same information before us on behalf of this case? No? All right. Any questions for staff? Mr. Toohey?

MR. TOOHEY: What is that parcel that's east of the parking lot?

MR. SMITH: This location?

MR. TOOHEY: Yeah.

MR. SMITH: That is a separately owned lot, so it is an existing lot, a vacant lot. It is zoned R-MF, as well, so -- it is owned by a separate owner. It is not owned by the Housing Authority.

MS. LOE: Any additional questions? Seeing none. We will open up the public hearing portion of the meeting.

PUBLIC HEARING OPENED

MR. GEBHARDT: Good evening. My name is Jay Gebhardt; I'm a civil engineer with A Civil Group here in Columbia, and it's late, so I'm just going to ask you if you guys have any questions.

MS. LOE: Thank you, Mr. Gebhardt. Are there any questions for Mr. Gebhardt? I see none. Thank you. All right. I see no other potential speakers, so I'm going to close the public speaking session.

PUBLIC HEARING CLOSED

MS. LOE: Commission discussion? Mr. Strodtman?

MR. STRODTMAN: If there's no further discussion, I would make the recommendation. For Case 39-2020 for 201 and 209 Switzler Street, zoning map

amendment, my recommendation for approval of the requested rezoning from PD -- 201 Switzler from PD to M-OF, and then 209 Switzler from R-MF to M-OF.

MR. STANTON: Second.

MS. RUSHING: Second.

MS. LOE: Mr. Stanton. We have a motion on the floor. Any discussion on that motion? I see none. Ms. Burns, may we have roll call, please.

MS. BURNS: Yes.

Roll Call Vote (Voting "yes" is to recommend approval.) Voting Yes: Ms.

Rushing,

Ms. Russell, Mr. Toohey, Ms. Burns, Ms. Carroll, Ms. Loe, Mr. Stanton, Mr.

Strodtman. Motion carries 8-0.

MS. BURNS: Eight to zero, motion carries.

MS. LOE: Recommendation for approval will be forwarded to City Council.

MR. GEBHARDT: Thank you all.

MS. LOE: Thank you. That closes our cases for the evening.

Recommendation for approval of the requested rezoning from PD -- 201 Switzler from PD to M-OF, and then 209 Switzler from R-MF to M-OF.

Yes: 8 - Burns, Loe, Rushing, Russell, Stanton, Strodtman, Toohey and Carroll

Excused: 1 - MacMann

VII. PUBLIC COMMENTS

MS. LOE: There's going to be no public comments tonight.

VIII. STAFF COMMENTS

MR. ZENNER: Your next meeting will be on January 23rd. It throws me off that we have no public comments. I'm sorry. The next meeting is January 23rd. We will have a regularly scheduled work session at 5:30. And as we had discussed this evening in work session, that will be a presentation by our sewer utility staff, Dave Sorrell, the assistant utilities director, and Aaron Keys, manager for the storm-water or the environmental division. They will be in to talk about our sanitary plans and its relationship to the urban service area in our work session. And we will then have a regular schedule meeting at 7:00 p.m. We have potentially two cases that were already scheduled on the agenda, one being Rock Bridge Elementary School. This is a tentative project at this point, given we are still trying to address a design adjustment related matter that may require the project to actually be withheld for right now. They may resolve that design adjustment issue and not require one, and at that point, it would be able to move forward, if I am correct, directly to City Council. And then the other item that will be on the agenda at

this point is another permanent zoning request. This is a project that's got a little bit of a long, hairy history with us here in the department. It's been a two-and-a-half year old proposal to bring in a single lot in one of the -- the last development lot at the Country Woods Subdivision which is off of Vawter School Road out on the southwest side of town, currently a county zoned R-S parcel proposing to be rezoned for R-1 and needed to be annexed and permanently zoned in order to connect to our City sewer. And then, of course, the other item that we had tabled this evening in regards to the Kardon request at 1001 Providence Road. We will bring that back to you, as well. Just so you get your bearings, obviously, you all probably aware of where the Rock Bridge Elementary School is at South Providence and then South Highway 163 as it's coming back down to the state park. And then the Cherry Bark property is in the area that's denoted here. It is a single lot on the end of an existing cul-de-sac within the Country Woods development itself. That would, again, be a permanent zoning request subject to annexation. Just so you have it on your calendars and the public is aware of it, not only do we have our upcoming Planning and Zoning Commission work session on the 23rd, we will have a joint meeting of the City's Planning Commission and the Boone County Planning Commission on March 6th -- or, I'm sorry -- on February 6th during our work session. That will be in Conference Room 1A. It is the larger conference room given that we will have a larger group with us as a whole. The County's Planning Commission consists of ten members, and we hope to have the majority of them there. There will be meal service, and the purpose for that meeting is to do a meet and greet between the two commissions, because you all will be working together on the upcoming West Area plan. Staff of both commissions will be providing an overview of the general study area, as well as seeking some input as to ideas for potential inclusion of topics within the area plan itself. We will provide the commissions a general overview of those criteria that we will typically see within an area plan and then open the floor up for a little bit of other specific things that may exist.

MR. CALDERA: Let me add something to that. Since this is a joint meeting, the same rules apply. We need a quorum of you all to be present before the entire group can get going. Okay.

MR. ZENNER: So with that being said, I am aware, based on notification that Ms. Loe has provided me, that she will be absent for that meeting. And if there are any other Commissioners that will be absent, if they will also allow me and Ms. Loe to be made aware of that so we can adequately prepare. Again, we will have meal service with this, and given the size of the bodies, that is going to be a substantial meal service, so if we know you'll be gone, we can adjust our food count appropriately. It's an exciting time for

us to be able to begin on this particular project, and --

MS. LOE: We'll work this out.

MS. BURNS: Yeah. You better work this out.

MR. ZENNER: I will need notice. Thank you. With that, I mean, we have an opportunity here in order to embark upon another joint process, so the East Area Plan was a successful product of both commissions. Neither commission was actually asked to perform duties in excess of what their normal role is. Staff, in essence, will be managing this process on your behalf. We would ask as we schedule public engagement meetings, which will be later in the spring, and potentially into the early summer, that you participate as you see fit. And, again, we'll explain this in greater detail when both Commissions are present, but we look at this as an opportunity to be able to do planning that has been discussed for the 11 years that I've been here, to be able to add some guidance to an area which we do believe will start to see some expansion. And this will be an excellent segue into a meeting after discussing with our sewer utility, some limitations. So with that, I'll leave it at that, and I thank you very much for your patience and your attention this evening. This has been one of our longer meetings and we will look forward to seeing you then in two weeks.

IX. COMMISSIONER COMMENTS

There were no comments from Commissioners.

X. NEXT MEETING DATE - January 23, 2020 @ 7 pm (tentative)

XI. ADJOURNMENT

MS. LOE: Ms. Russell?

MS. RUSSELL: I think I move to adjourn.

MR. STANTON: Second.

MS. LOE: Second by Mr. Stanton. We are adjourned.

(The meeting was adjourned at 9:17 p.m.)

(Off the record.)

Move to adjourn