

EXCERPTS
PLANNING AND ZONING COMMISSION MEETING
COLUMBIA CITY HALL COUNCIL CHAMBER
701 EAST BROADWAY, COLUMBIA, MISSOURI
December 5, 2019

Case No. 06-2020

A request by Van Matre Law Firm, P.C. on behalf of TKG St. Peters Shopping Center LLC for a conditional use permit to allow a drive-up facility (often described as a drive-thru) on approximately 1.13 acres of M-DT (Mixed use-Downtown) zoned property for a Raising Cane's Restaurant. The property is located southwest of the intersection of Providence Road and Locust Street and is addressed 201 S. Providence Road. Restaurants are a permitted use in the M-DT; drive-up facilities are a conditional, accessory use which requires a conditional use permit subjects to the provisions of Chapter 29-6.4(m).

May we have a staff report, please?

MS. BACON: Do you want to ask for ex parte?

MS. LOE: No. I usually do that after the staff report.

MS. BACON: Yes, you may have a staff report then. Staff report was given by Ms. Rachel Bacon of the Planning and Development Department. Staff's recommendation: We are recommending denial of the requested CUP this evening.

MS. LOE: Thank you, Ms. Bacon. Now that we fully understand what this case involves I will ask the Commissioners if there's been any ex parte on 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? Good presentation. I see none.

MR. MacMANN: Speechless.

MS. LOE: That being the case, we're going to move directly into public comment.

PUBLIC COMMENT OPENED

MS. LOE: With public comment, please give us your name and address. You have three minutes to address the Commission. If you're representing a group, you have six minutes.

MR. HOLLIS: Good evening. My name is Robert Hollis. I'm an attorney with the Van Matre Law Firm here on behalf of the applicant. So hopefully that means I get six minutes. I have passed out a hard copy of a power point presentation that will appear on your screen. With me here are other representatives of Raising Cane's, as well as the property owner TKG St. Peters Shopping Center, L.L.C. It was a very thorough and excellent presentation. I'm not surprised to hear that and that you've received that from city staff as would be typical. However, it's a little more simple, I think. That information, although not irrelevant, is also not set forth with regard to what you are to consider this evening, at least in my opinion. So big picture. This is a shopping center. You have a large pharmacy and office supply

store and a grocery store. It is M-DT no doubt about it, but it is, in fact, a shopping center. It's a shopping center that obviously was formerly zoned C2. It's also a shopping center that contains another drive-thru. It's a shopping center that's adjacent to property that has a drive-thru, that being Hardee's, and it's along the corridor that contains multiple businesses that have drive-thrus not the least of which is a fairly recent one that this Commission recommended approval of and that was a coffee shop north on Providence which is subject to all of the regulations that this property is subject to except that it's in a residential neighborhood and it was a rezoning and was in a more congested area with regard to traffic. So that's all I'll say about that property, but at least it's analogous in that regard. Quick point on the 2014 conditional use permit. I handled that. It was for the entire 3-acre property. If you look at the staff report, the staff report specifically says that drive-thrus are a part of off street surface parking and the entire purpose of the conditional use permit that we obtained from the board of adjustment was to approve off street surface parking and a drive-thru. But again, we're here making our request and we believe we meet the criteria. Don't need to show you the depictions except for this one. This is as if you were in a drone driving north on Providence. As you can see, the drive-thru is on the south part of the building. The building is facing Providence. It does not comply with the RBL. It's actually not what's to be considered by this Commission this evening. You're simply considering whether or not to permit a drive-thru. You're not considering the site plan either, merely whether or not a drive-thru should be permitted. I would also add that what's not required you can see is the sidewalk that goes from Providence and winds its way up to the site, a site change that was requested by staff, I believe, or at least was discussed and was made by the applicant. It doesn't cross the drive-thru lane. It crosses a drive lane just like you would cross if you were parking on the north side of the property in the parking lot you would have to cross a lane just like you do at so many businesses everywhere. We've talked about the standards. I want to take issue with not most of the staff report but the portions that are negative with regard to A and B of the standards. Primarily that the comprehensive plan would need to be changed and the UDC changed again if you were to consider -- if you were required to consider all that information. There was a charrette. There is a 15-year old Providence corridor policy. Those documents are not binding. Those documents are not referred to in the UDC with regard to the decision that you're making. The comprehensive plan is. So if we look at the comprehensive plan and you look at the UDC, this is a permitted use at least with regard to fast food and under the comprehensive plan this is a city center and the city center permits commercial uses. A drive-thru at least in this instance is a commercial use. I'm going to talk briefly about standard A and standard B and then I'll be done. So standard A, does the conditional use comply with the M-DT district. That's M-DT district. It's not exactly word for word, but that's a way to summarize it. Drive-up facility is on the list of conditional uses under M-DT. If you look at staff's analysis in 2014 of the request for a conditional use that included a drive-thru, the entire analysis is at the bottom of the screen which says conditional use "is eligible for approval as a conditional use within the C-2 zoning district." Exactly as the case is today. That was the entire analysis. And I'll reiterate you are not considering whether or not to approve the site plan or deny the site plan or the primary land use, which is a fast food restaurant,

a lot of which of the information which is in the staff report, for example, this isn't the highest and best use, those sorts of comments. I understand because it's really difficult to talk about the drive-thru separate from the primary use. We're not talking about the primary use. The highest and best use is at least in this case a restaurant because it is permitted by right and there is nothing about this particular conditional use that does not comply with the M-DT standard/provisions, nothing. Now, as the site plan is put together as of today, yes, we don't meet the RBL and yes, we're 18 inches off with regard to the elevation. That requires that we have to go to the board of adjustment but we're not talking about that. We're just talking about the drive-thru, not the site plan. Standard B. This one is even more difficult to talk about when it's an accessory use it's a conditional use. 30 seconds. May I? So it is whether or not it's consistent with the comprehensive plan. I don't think staff mentioned anything in the report in the comprehensive plan as it applies to this situation. One reason they didn't is because it's very difficult because drive-thrus are not addressed. They're just not. So what can you look to? You can look to the fact that the comprehensive plan calls this area a city center. A city center permits commercial uses. Now, I pulled the list of things that at least this development in general would be positive with regard to things that are actually in the comprehensive plan. That's all I have. Any questions?

MS. LOE: Thank you, Mr. Hollis. Any questions for Mr. Hollis? Mr. Stanton?

MR. STANTON: Yes, sir. Very good presentation. To my knowledge, were your clients privy to the same information that Ms. Bacon presented to us in the staff report as far as how the M-DOT how the city looks at using that, that wonderful presentation? All that is public information, right?

MR. HOLLIS: Absolutely. And I should add to that that we've worked really closely for months now with staff in getting to where we are. Yeah, I don't think anybody has hidden anything from anyone.

MR. STANTON: This seems like you're kind of like I hear you but forget what you're talking about, I'm going to do what I want. Outside of looking at the charrette, outside of looking at the conditional uses, outside of looking at the comprehensive plan, outside of looking at how we want M-DT to be used, it's like you looked at all that and was like I'm going to build a case for it. Forget what you're talking about. Forget what the comprehensive plans. I'll do what I want.

MR. HOLLIS: I intended to communicate just the opposite in that what we're trying to do is consistent with the comprehensive plan but we are not attempting to comply with a 15-year old 2000 -- or a Providence corridor policy that was not, you know, enforceable in any way, shape or form --

MR. STANTON: So you hold no weight to charrette, you hold no weight to neighborhood plans, you hold no weight to any of that. None of that means anything to you as it's developed by citizens of this city. They have no weight in your decision?

MR. HOLLIS: Absolutely not. No, they definitely carry weight. It's just that the UDC as it's written, so UDC is the latest thing we've got. If you're going to follow it and you're going to look at the criteria that is set forth in the six items that you're to look at, those six items don't say anything about the charrette or the 2005 Providence corridor policy. So I'm just asking you to look at what the UDC says and that's what I was trying to focus on. It's really hard to get that done in six minutes especially when you're

long winded. No, no, I'm not discounting the importance of those plans and all the work that went into those plans and those reports no doubt about it. Right now what we have in front of us is a conditional use permit, the first one I think you've had, and I want to try to make it clear what I believe the UDC says and that is look at these six criteria.

MR. STANTON: Thank you.

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

MR. HOLLIS: Thank you.

MS. LOE: Any additional speakers on this case?

MS. BAGLEY: Good evening. My name is Melanie Bagley. I am the property development manager for Raising Cane's. My address is 2348 Arezzo Lane in Allen, Texas, 75013. I won't belabor any of the points that Mr. Hollis has made. Again, I just wanted to reiterate simply that we are here pursuing your approval of a drive-thru. And I think the aspect that I can offer to you regarding or the high points that I can offer on the operational side of why we should -- why commissioners should approve the drive-thru is the way that Raising Cane's operates our high level of standards, the pride in which we take in the ownership in the site. I think you will find -- I think that fast food and drive-thru uses tend to have a negative connotation. As Ms. Bacon pointed out, there's noise, there's headlights, you know, there's traffic buildup because of the queuing in the drive-thru line. I can guarantee you that we have fine tuned this operation even to a point where in the opening weeks where we would expect to have a crowd we have people out directing traffic and helping people funnel through the queuing lines. Cleanliness is something that we take pride in on our sites. The drive-thru is well maintained. The queuing time for a customer from the time they get to the menu board to the time that they get to the pickup window is two and a half minutes. Our food is fresh. We watch for people that come into the site and as they're pulling into the drive aisle and entering the queuing line, the drive-thru line, staff is watching to see how many people might be in the car and are preparing food as fresh as it can be and as soon as they drive into the drive-thru lane. I think that we have, as Mr. Hollis has mentioned, worked very closely with Ms. Bacon. Again, this is not the place where we will be considering the development of the site, but as you can see we have taken to heart the criteria as Commissioner Stanton has mentioned of the UDC. We have taken into consideration the fact that the city would like for this to be a pedestrian friendly development. We're implementing multiple bike racks and park benches and an outdoor dining area to encourage that aspect of this development. If you have any other questions related to the operations of Raising Cane's or the drive-thru itself, I'm here to answer those questions.

MS. LOE: Thank you, Ms. Bagley. Any questions for the speaker? Ms. Burns?

MS. BURNS: Yes. Ms. Bagley, did you do any traffic studies when you're talking about the queuing of traffic you're anticipating?

MS. BAGLEY: We have had a traffic study done. We have our civil engineer here with us. She can speak to the high points on that. Debbie, do you want to -- Do you have a question specific to the traffic study itself?

MS. BURNS: I was curious to know there were guarantees that traffic would flow and customers would be served quickly. That's quite a statement to guarantee that, particularly on Providence Road where stacking does occur during busy times.

MS. BAGLEY: If I can get back to the site plan, as we show here customers would enter from Providence and use that drive aisle or Locust to enter the site. They would come in through the rear of the site and access the drive-thru lane at that point and that is where we see the traffic flow starting and funneling through the site. Again, you know, we have people that are directing traffic, especially the people that are outside and helping people get into the line and get through, taking orders as needed in the line and really working to move people through as quickly as possible. Debbie, do you want --

MS. STOSZ: Hi. Debbie Stosz with Premier Design Group, 100 Midland Park Drive, Wentzville, Missouri, 63385. We are in the process of having a traffic study completed. They have gone out and done the traffic count. Unfortunately the traffic study has not been completed; but as Mr. Hollis said earlier during the previous CUP approvals there was a traffic study completed and it did not show any negative impact with regard to the Providence flow or, you know, Lucky's. So, again, we're working on that. Based off the numbers we have, again not completed, they're doing a traffic study for Raising Cane's specifically, it again is not showing any negative impact and we can submit that again when we get through the CUP process and then going forward with the site plan approvals those traffic studies will be submitted to back up what we're seeing.

MS. BURNS: Just to follow up, I guess I'd prefer to see the traffic studies prior to.

MS. STOSZ: I understand that. We had tried to get it done prior to this meeting. Unfortunately we were not. Again, we have a traffic study. Unfortunately I didn't bring it with me. It was done for the McDonald's, the previous CUP, but unfortunately we did not get it completed prior to tonight. We had hoped to but it did not happen.

MS. BURNS: Thank you.

MS. LOE: Mr. MacMann, question for Ms. Bagley?

MR. MacMANN: Yes, ma'am. No, I'm sorry, the engineer. I apologize. My error. You did say you don't have that traffic study with you, but on the previous CUP for the McDonald's review is what Mr. Kroenke (phonetic spelling) had pondered, how many daily trips to that drive-thru? Do you remember?

MS. STOSZ: No, but I could get -- I have it on my phone. I could look it up. Unfortunately I don't remember.

MR. MacMANN: That would be great. Can she get back with us the number of trips? That would be great.

MS. LOE: Any additional speakers while we're checking that information?

MR. BARNES: Good evening. My name is Bill Barnes. I'm at 101 South Hanley, Clayton, Missouri. I'm a commercial real estate broker with NAI DESCO in St. Louis. I have had the privilege of working with Raising Cane's for the last seven years. I've helped them open 12 restaurants in St. Louis.

I've been through seven municipal processes and presentations, CUP, and it was new to St. Louis as well. And there's some Raising Cane's in Kansas City. Our firm we do a lot of corporate work. We work with a lot of big restaurants and chains. When I contracted with Raising Cane's seven years ago, I really learned how special the company was. They're privately owned. They were started in 1996. A family owns it. They still own it. They run it completely different than a big corporate publicly traded type of company. What a lot of people don't realize about Raising Cane's is all their meals are cooked to order. When you pull on site, they start dropping chicken. They use the tenderloin portion of the chicken breast. It's never frozen. They cook it to order. You won't find a heat lamp or a microwave in Raising Cane's. There's a lot of misconceptions about is this a fast food restaurant. Everything is made in house. So their sauces are mixed in house. Their cole slaw is chopped in house. They freshly squeeze their lemonade. But I think what is most impressive about Raising Cane's is their community involvement. They have basically about five focuses of their community involvement. It's education, feeding the hungry, pet welfare, active lifestyles and entrepreneurship. A neat story that happened back in August in St. Louis. Stray Rescue is our largest pet adoption facility in St. Louis. During August, it had -- it was completely full of animals. The facility was completely full. The owner of Raising Cane's, his name is Todd Graves, he named his restaurant after his yellow lab Raising Cane. So pet welfare to him is really important. He heard about the overpopulation of our stray rescue, flew into St. Louis unannounced, did a partnership with the St. Louis Cardinals, wrote a check to Stray Rescue for \$10,000 and then covered all vaccinations and all application fees for adoptions for Stray Rescue. He just showed up one day. That's the type of community involvement you see with Raising Cane's all the time. I have 12 municipalities in St. Louis that have been unbelievably impressed with who Raising Cane's is. Secondly, their charitable involvement has been unbelievable. To date since 1996 Raising Cane's has donated over \$20 million to local charities. They have a goal right now to donate 20 percent of gross profit to charity and they made a pledge that by 2025 they will have donated \$50 million to charity. What's really impressive is they do it all on the local level. So it's not writing a check to American Red Cross at the national level. They basically give it to their store managers and let their store managers distribute that on a local basis. So I can't say enough about them. They're an awesome community partner. They have a great product. They really care about the community. Thank you very much for your time.

MS. LOE: Thank you, Mr. Barnes. Are there any questions for the speaker? I see none. Have we found the information?

MS. STOSZ: Based off of the --

MS. LOE: Do you want to just reintroduce yourself for the record?

MS. STOSZ: Debbie Stosz with Premier Design Group.

MS. LOE: Thank you.

MS. STOSZ: Based off of the previous traffic study that was done with the previous CUP, the generation at the a.m. peak hour, which is I think 7:00 to 9:00, was 200 trips generated, and then the p.m. peak hour, which was I think it's 5:00 to 7:00, was 145.

MR. MacMANN: You said 545?

MS. STOSZ: 145.

MR. MacMANN: 145. That sounds a little optimistic to me, but I'm not a traffic engineer. The reason I ask for that number is as different things have gone on and we've had the student development down on Tucker, we gave them a road, they got a road. I've listened to a lot of traffic engineers tell me that there will be no appreciable impact. 700 trips, 1,000 trips. I think it's kind of optimistic just FYI and IT would have been much more efficient for this process and for our decision making if we actually had a traffic study here to look at. They may be a great corporate citizen. Awesome. Good for you guys. Not really germane. If we have that traffic study just to analyze it. We don't -- I guess you're trying to say go by our word because we're good people. We don't know that. We've had other traffic studies in the past. I appreciate looking that up. Just an idea how many trips a day.

MS. LOE: Any additional questions, Mr. MacMann?

MR. MacMANN: I don't have any additional questions. I think they have a counter point. I think that's where we're going here.

MS. STOSZ: Like I said, we do have something preliminary. It's not completed. Based off of Raising Cane's, which again is not McDonald's, McDonald's has a lot more traffic, and I am not a traffic engineer, we hire outside. I'll throw that out there. I was given this report. Their estimates are 170 during the weekday midday peak hour during the lunch hour. The weekday p.m. would be 110. So it is substantially less than the previous traffic study. Again, understanding your concerns that you're not, you know, it may be blown up a little bit. These guys, this is what they do. We're pretty confident in the numbers. Again, as Melanie had said earlier, Raising Cane's, I've never had to wait more than five minutes at any Raising Cane's.

MR. MacMANN: That's fantastic.

MS. STOSZ: Those are the numbers. Like I said, unfortunately I didn't have this. I just got it yesterday. I did not get it printed out and have time to get it to Ms. Bacon. Again, it's not completed. It's just showing the estimates as far as the trip generations.

MS. LOE: Ms. Burns and then Ms. Rushing?

MS. BURNS: Actually the lunchtime was when I was the most interested because almost daily the stacking at the Taco Bell on Providence Road extending down toward.

MS. STOSZ: Right. I will throw that the pedestrian, we feel that there will be some pedestrian traffic which is why we've done all these enhancements. So there will be drive-thru traffic but we think a lot of it will be from the pedestrians because of our enhancements and the bike racks and the bike repair stations and everything that we're proposing.

MS. BURNS: Do you have any pedestrian information how many you think would be coming through?

MS. STOSZ: I don't think they've gotten that far yet.

MS. BURNS: Thank you.

MS. LOE: Ms. Rushing?

MS. RUSHING: My questions are kind of along the same lines. The majority of your service is going to be drive-thru; is that correct?

MS. STOSZ: Melanie would probably be more.

MS. BAGLEY: Yes, the majority of our services are drive-thru, which is why we have worked so hard and so diligently to, you know, reduce the stack -- the queuing time and again to add the bypass, the double lane drive-thru really helps mitigate again that queuing issue that you're concerned about. I mean, it's something that we have looked into and I can tell you the line moves. I mean, it's not --

MS. RUSHING: But you do have inside seating or you do not?

MS. BAGLEY: Yes, ma'am. Oh, yes, ma'am.

MS. RUSHING: About how many customers would you have seating for?

MS. BAGLEY: I believe on this plan we have seating for approximately -- sorry, just taking a minute to load. Forgive me. While this is loading, interior to the building we have seating for approximately 90 to 100 patrons. We're doing a wrap around patio here again to try and facilitate more outdoor seating, more pedestrian friendly sitescape and we'll have 90 to 120 or 30 seats.

MS. RUSHING: Thank you.

MS. BAGLEY: You're welcome.

MS. LOE: Any additional questions for these speakers? Thank you.

MS. BAGLEY: Thank you very much.

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

PUBLIC COMMENTS CLOSED

MS. LOE: Commission discussion. Ms. Russell?

MS. RUSSELL: I'm going to support this drive-thru. This is not Taco Bell where the cars are lined up on Providence. They're actually going to be going through Lucky's parking lot. It is a shopping center. There's Lucky's on one side. There's going to be some grass and then there's an automotive store. Trying to make this a beautiful corridor seems a little difficult. And from the design they've given us, this is a really pretty thing to look at. So I'm going to support the drive-thru.

MS. LOE: Mr. MacMann?

MR. MacMANN: I have a general comment. I'm kind of going in both directions, but I do have a comment for our friends and family out in the development community. It's really hard for us to make decisions when we don't have data. Even I know it's an engineering study that you guys have contracted that's your interpretation -- I work construction. I get that. It's your optimistic view and not just in general. We're recording this for posterity. In the future, please if you have evidence to present bring it with you. That's my comment at this point.

MS. LOE: Mr. Stanton?

MR. STANTON: My buddy Mr. Hollis made a very good presentation. He's right. There's drive-

thrus up and down Providence at this place. This is the thing though. I generally don't -- maybe I'm saying this to the public and future developers. There's a lot of information available to let you know what the pulse of this city is and someone as versed as Mr. Hollis should have definitely prepared you to know that we're kind of hippies here. We do a lot of walking and biking. You should have had that stuff ready to go, ready to go. The pedestrian things, the traffic things, that's what we were coming for because we have all this information Ms. Bacon presented. That is public information. People put a lot of time in charrette, put a lot of time in what we want our city to look like, what our corridors. Yes, Mr. Hollis, you're right, you can go by the letter of the law and the UDC. You know Columbia doesn't work like that, man. You know that we look at the whole wholistic picture. You made a good case on the drive-thru. Simply because there's a lot of them around, I'm still concerned with the traffic. I think you guys did a lot of good marketing, but I don't trust the traffic study. I don't think that you're not going to have lines. Look at Popeye's. I think we're going to have a similar thing right here. This is going to be the hottest thing on the street. There's going to be a lot of people there. How many places do you have -- well, we're not in public hearing. I see an attempt to have an outside presence. I don't know. I definitely want people to look at all the information that Columbia provides to let us know what we want our city to look like.

MS. LOE: Ms. Carroll?

MS. CARROLL: I agree with Anthony. I definitely consider all of our city's planning reports, especially when I am reviewing a conditional use permit. I think these are the goals of our city; and as we've just discussed in our work session, those need to be weighed. And I'd like to point out that, you know, our downtown it is very walkable. Our city is good at that. This connects -- this bit of Providence connects our downtown to the Stuart Road trail hub. This gets a lot of pedestrian use. And I'll admit this road does have other fast food agencies and right here it's not that walkable but it gets a lot of pedestrian use. I particularly see pedestrians walking down this driveway strip from Lucky's all the time and it's dangerous and we're going to increase the traffic through that driveway strip where already pedestrians are using that because they don't have another route to go. I don't know if I can support that. I understand that you are presenting a fast food model that you consider to be a higher cut than typical fast food, but I don't think that changes the traffic situation at this location. And while there might be other fast food restaurants in this area, those applications aren't sitting before me right now. I can only judge what's sitting before me right now. That's my only real comment here.

MS. LOE: Ms. Burns?

MS. BURNS: I wish I had more information. I wish I had the traffic study. It makes it very difficult for me to support this. I agree about the pedestrian traffic going up and down the Lucky's. Lucky's is tough. I shop there a lot and I almost always see a near accident. Their parking lot is not angled in. Their back out, it's kind of a blind spot. I do have concerns for the people that I see walking up and down the entrance to Lucky's. I also have to appreciate what staff has said when we talk about looking at the downtown charrette and the comprehensive plan. I know this lot has sat vacant for a long time. I'd like to see it used in a different way, and I don't think that this adds to what we're trying to create

in downtown Columbia.

MS. LOE: I'd like to say that I think the role of the Commission is to evaluate whether or not the projects that are brought before us comply with the city's plans and policies. One of the ones we need to evaluate this one is the 15-year old Providence Road policy which Mr. Hollis has identified as wishing not being attempted not being held to -- to comply with. Sorry. Mr. Hollis, attempting not to comply with the 15-year old policy. However, I would like to point out that the Hardee's appears to be 16 years old. So it appears that the Providence policy may have been created in reaction to the Hardee's going in perhaps. Especially in light of that, I don't think the Hardee's is a good precedent to base adding another drive-thru in this area on. I also do look to the other plans in place whether or not they are referenced specifically by the UDC. And we have had this discussion on various plans already in planning and zoning when considering other overlays. They do inform our decisions. So I'm not going to support this, because I don't believe it does meet the requirements that are established in those plans. The restaurant does sound lovely and the food does sound great. It sounds like a good fit for Columbia, just not perhaps in this specific location. Ms. Russell, did you have another comment?

MS. RUSSELL: Of course I do. I have been to Raising Cane's and it is awesome. Their drive-thrus are -- I'm sorry but I also love Chick-fil-A. And Chick-fil-A should run the country the way they can get people through a drive-thru. Raising Cane's can beat that. I've seen that happen. When they redo their site, they could put a sidewalk that goes down that hill from Lucky's and that would make that safer, but we're just asked to see if they get a drive-thru. It comes through the Lucky's parking lot. I still am in favor of this. I may be a lone voice here but I'm still in favor.

MS. LOE: Any additional comments? Mr. MacMann?

MR. MacMANN: If my commissioners are done, do you have anything else? I have a motion. I want you to know I'm going to be voting in the negative on this motion. In the matter of Case 06-202, a request by the Van Matre Law Firm, P.C. on behalf of TKG St. Peters for a conditional use permit for Raising Cane's, I move that we approve.

MS. RUSSELL: Second.

MS. LOE: Second by Ms. Russell. We have a motion on the floor. Any discussion on that motion? Mr. Stanton?

MR. STANTON: You move to approve?

MR. MacMANN: I made the policy in the positive. I am going to vote no, Mr. Stanton. I just wanted to let you know. It's our best practice to make the motion in the positive.

MR. STANTON: You're making it in the affirmative?

MR. MacMANN: Correct.

MS. LOE: Any further discussion? Seeing none. Ms. Burns, may we have roll call, please?

MS. BURNS: Yes.

Roll Call Vote (Voting "yes" is to recommend approval.) Voting Yes: Mr. Stanton, Ms. Russell, Voting No: Ms. Rushing, Ms. Burns, Ms. Carroll, Ms. Loe, Mr. MacMann. Motion denied 5-

2.

MS. BURNS: Five to two, motion is denied.

MS. LOE: Recommendation for denial will be forwarded to city council. Our final case for the evening.