

EXCERPTS
PLANNING AND ZONING COMMISSION MEETING
COLUMBIA CITY HALL COUNCIL CHAMBER
701 EAST BROADWAY, COLUMBIA, MO
September 9, 2021

Case # 256-2021

A request by A Civil Group (agent), on behalf of Garry Lewis (owner), for approval of the rezoning of approximately 17.9 acres in the development common known as “Corporate Lake” generally bounded by Brandon Woods Street on the west, Providence Road on the east, North Cedar Lake Drive on the north and Southampton Drive on the south. The existing properties are zoned a mix of M-OF (Mixed-Use Office), M-N (Mixed-Use Neighborhood), M-C (Mixed-Use Corridor), and PD (Planned Development). The applicant is requesting the properties to be rezoning to R-MF (Multiple-family Dwelling) district, M-C, and M-N.

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

Staff report was given by Mr. Rusty Palmer of the Planning and Development Department. Staff recommends:

Approval of:

1. R-MF zoning on Tracts 1 and 2
2. M-C zoning on Tracts 3 and 4
3. M-N zoning on Tracts 5 through 10

Denial of:

1. M-C zoning on Tract 11

Alternatively, if the Commission desires to eliminate the “split-zoning” on Tract 11 staff recommends:

1. Only rezoning that portion presently zoned M-OF to the M-N district.
2. Require that a revised legal description be provided for Tract 11 consistent with the modified area to be rezoned.

MS. LOE: Thank you, Planner Palmer. Before we move on to questions for staff, I would like to ask any Commissioner who has had any ex parte related to this case to please share that with the Commission, so all Commissioners have the benefit of the same information on the case in front of us. Seeing none. Are there any questions for staff? Commissioner Geuea Jones, then Commissioner Placier.

MS. GEUEA JONES: So the -- the lots that are PD, that -- that planned development was done in 1990 during annexation or when was that?

MR. PALMER: No. They were done individually between annexation and now. They're --

MS. GEUEA JONES: But all prior to the UDC?

MR. PALMER: I believe so. Yeah.

MS. GEUEA JONES: Okay. Thank you.

MS. LOE: Commissioner Placier?

MS. PLACIER: Uh-huh. Yes. We have before us some of the public comment submitted, and there was just a one-line response from the school district saying CPS have no issue with this rezoning, referring to tract 11 being rezoned as a convenience store -- well, relating to tract 11, did they at that point have information that it would be a convenience store which could potentially probably sell things that high schoolers would possibly flock to?

MR. PALMER: I don't have an answer to that, but perhaps Mr. Gebhardt would -- would have -- shed a little bit of light on that.

MS. LOE: Any additional questions for staff? Seeing none. We will open up the floor to public comment.

PUBLIC HEARING OPENED.

MR. GEBHARDT: Good evening. My name is Jay Gebhardt. I'm a civil engineer and land surveyor with A Civil Group, 3401 Broadway Business Park Court. Ms. Placier, in answer to your question, I contacted Mr. Yearwood, the superintendent, and he assigned this to Randall Gooch, who wrote that email. It was explained -- and my client, Garry Lewis, sent a letter to the school explaining there would be a convenience store and his desire is to have up to four gas pumps and four electric charging stations, and so they were -- they are aware of that. And just so everyone is clear, that corner is zoned M-N now, and all the things that you are worried about being sold in the store can be sold there today.

MS. PLACIER: Absolutely.

MR. GEBHARDT: So the only thing that is different is Mr. Lewis wants to own and operate a convenience store here for the neighborhood. So again, I'm working for Mr. Lewis, who owns all these tracts. This is really a request to bring this site up to the standards of the new code and eliminate the hodgepodge of zoning that exists on the site today. When you look at the zoning on this, it's kind of all over the place, so I'm attempting here to clean everything up and bring it all up to the current code. Since staff is recommending approval on tracts one through ten, I want to talk about tract 11 with you guys. And so really this request for tract 11 is to decide whether this store -- this convenience store should have electric charging stations and gas pumps for the residents of the area. And those residents -- as for the neighborhood, this would serve all of the homes with access to South Hampton, which includes 360-so apartments owned by Mr. Lewis, all of Cedar Lake subdivision, all of Cedar Lake South subdivision, Bedford Walk subdivision, the Highlands, Woodrail South, and Heritage Estates. It's a huge area here that feeds on South Hampton. So really the request again, keep in mind, is for a convenience store that would sell -- have up to four pumps and four charging stations. Also, I would like you guys to keep in mind that a traffic study will be required by the UDC regardless of the use on this property because we're going to exceed the 100 trips per AM or PM peak, which is the threshold. So I know traffic out here with

the students and young drivers and that is a concern, but that is all going to be taken into account in a thorough traffic study of this. And when we do a traffic study on tract 11, they are going to look at all the uses in this general area to determine the traffic flow. And since Mr. Lewis owns almost all of it and plans on keeping all of it, it's -- it's in his interest to do this. Just like my previous site at the Fringe Boutique, this site is limited in size. Staff didn't bring that up in this case, but it's a pretty small tract, plus there is about a quarter acre of this tract that's in the lake. So there's -- there's really limitations on what you can do with this as far as the obnoxious uses in M-C that staff is worried about. Again, Mr. Lewis is going to own this store and manage it. The lot won't be sold, and we're downzoning several tracts as a trade off for approximately four vehicle charging stations and four gas pumps. And we've already talked about Columbia Public Schools. We talked to our only real neighbor, which is Mr. Grossnickle on the east side of Executive Drive, and he is in full support of this request. And his land is zoned PD, and he is allowed C-3 uses on that. So this would not be an island of M-C uses, per se, because the PD zone across the street allows it. So having said that, I would like to answer any questions and move forward, if we can, and go home.

MS. LOE: Any questions? Commissioner Burns?

MS. BURNS: We have correspondence from Mr. and Mrs. Grossnickle in opposition, I thought. Is it so late that I'm not reading that correctly? It -- Skip and Daisy have sent a correspondence that they were not --

MR. GEBHARDT: That's news to me. They didn't -- last time I talked to them, they were in favor of it, so I was not aware of that.

MS. BURNS: Okay. Thank you. I was surprised when you said that because we have this --

MR. GEBHARDT: Right. No. I wasn't aware of that. I'm sorry.

MS. PLACIER: And it's dated today.

MR. PALMER: Yeah. I was going to say that all of those were received today, so they were printed at 4:30.

MS. LOE: So since you don't appear to have received this, Mr. Gebhardt, there also was a correspondence from the Cedar Lake Homeowners Association that identifies opposition, the email you forwarded from Randall Gooch, which identifies no issue, and then a letter from The Columbia Performing Arts Center general counsel, which identifies issues, and the Grossnickles' communication identifies a support [sic] and share their concerns identified in the letter. Any other questions for Mr. Gebhardt?

MS. BURNS: I'm just making sure that I'm looking at tract 11 that -- on what we see on the screen here. It's -- the corner of it, I guess that would be what the southwest, yes. Thank you. Just making sure. Thank you.

MS. LOE: Any additional questions? Commissioner Geuea Jones?

MS. GEUEA JONES: So the -- staff, if you'll go back, Rusty, to the recommendation page. What do you think about the alternative recommendation with you requesting a CUP to have the gas pumps, because you could open the convenience store portion under M-N and get a CUP for the gas pumps.

MR. GEBHARDT: That's correct. My client has specifically told me that he would like to have M-C and not have to go through that extra step and that process because we're already subjecting ourselves to the UDC when we don't have to. And so he feels like he has given up enough that he doesn't need to do that. You may not agree with that, but that's his feelings.

MS. GEUEA JONES: Thank you.

MR. GEBHARDT: Uh-huh.

MS. LOE: Any additional questions? Mr. Gebhardt, so just for my clarification, the only uses that your client is interested in for tract 11 that aren't allowed under the M-N would be the gas pumps? Could he do the convenience store uses he wants under M-N?

MR. GEBHARDT: Yes.

MS. LOE: All right.

MR. GEBHARDT: Yeah. It's only about the gas pumps and the electric -- he -- he's -- he wants to try to put in some electric charging stations because he thinks that's going to be something in the future that people are going to want. And since that is not allowed in M-N also, even if he just chose to do the electric charging stations and not the gas pumps, it still needs M-C zoning for that .

MS. LOE: And the other --

MR. GEBHARDT: Or -- or a conditional use permit.

MS. LOE: The other M-C sites aren't attractive?

MR. GEBHARDT: They're not on the major corridor. It's not where stores like this thrive.

MS. LOE: Well, we're not talking convenience store now, we're just talking the gas pumps, which would be allowed in the M-C. You're really only requesting the M-C for the gas pumps.

MR. GEBHARDT: That's right.

MS. LOE: Right.

MR. GEBHARDT: Right.

MS. LOE: So he doesn't want to locate the gas pumps on the other M-C zoned lots?

MR. GEBHARDT: It really wouldn't really make a lot of sense to have them because they're the loss leader that brings people into the store. That's -- having separate from the store would not make a lot of sense. But, you know -- and to locate the store on those interior M-C pieces, you know, the one on North Cedar Lake Drive is -- fronts on Providence, but it really has no direct access to Providence. It's limited to the north, and then there is one access to the south there. If that went out to Providence, that's where we would put the -- be requesting to put the store, but we just feel like the corner of Executive and South Hampton is the major corridor for that.

MS. LOE: Thank you. Any additional questions for this speaker. I see none. Thank you, Mr. Gebhardt.

MR. GEBHARDT: Thank you.

MR. SCHEPERS: My name is Chris Schepers; I live at 21 North Cedar Lake, which is in tract 1, I believe. I don't really have a problem with a lot of these initial changes -- the reasoning for, like, tracts

one, two -- one and two and three and four. I am really concerned at the commercial rezoning that we're talking about here. While South Hampton is being described as a thruway, if you're familiar with the area, it is just one-way or a two-lane street back and forth with traffic. And during the morning hours, rush hour, and when the high schoolers are getting in and out of school, it gets very busy there, and I think any major development in that area is going to be very problematic. And if you're talking about rezoning and putting a gas station there on that corner, you're going to be looking at accidents. You're almost already looking at accidents there on a daily situation. And I know it was said that a lot of it is going to be addressed in the traffic analysis, but I want to get that out in front of it right now.

MS. LOE: Thank you. Any questions for this speaker? Excuse me. We have questions.

MR. SCHEPERS: Oh, I'm sorry.

MS. LOE: This is the best part.

MR. SCHEPERS: It's late.

MS. LOE: Sorry.

MS. GEUEA JONES: Thank you for your patience.

MR. SCHEPERS: Yes.

MS. LOE: Commissioner Geuea Jones?

MS. GEUEA JONES: Thank you. So you're just concerned about the corner of South Hampton and Executive, that lot? You don't --

MR. SCHEPERS: That is my primary concern coming to this meeting today. The --

MS. GEUEA JONES: Please speak into the microphone, sir.

MR. SCHEPERS: Yeah. I'm sorry. That's my primary concern coming here and sitting through the meeting and kind of getting fully informed of it because there is not a lot -- the tracts one and two are much like it was already indicated. There are already multi-dwelling homes.

MS. GEUEA JONES: Yes.

MR. SCHEPERS: That's what they are. And the commercial zoning there in that general area seems to be developing in a way that's kind of natural. There's coffee shops, some business offices, and all of that stuff is appropriate and conducive to the area. I'm more concerned as that area becomes more developed, we are going to see more convenience stores, more access, more issues with parking is starting to creep up in that area. And, yeah, tract 11 and then I -- there's nothing that we can do about the areas that are already zoned commercially and allow everything, but -- but upzoning is my biggest concern here at this point.

MS. GEUEA JONES: Okay.

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

MR. SCHEPERS: Thank you.

MR. OTTO: My name is Dick Otto, 704 Idlewood Court, which is in the Cedar Lake subdivision, where my wife and I have lived for over 40 years. I have the pleasure -- I have had the pleasure of serving on the homeowners' association as president, vice president, secretary and treasurer at different

times, and Columbia has been my home for over 50 years. First and foremost, I wish to thank each member of this Planning and Zoning Commission for their much needed service to our community. Having served on the Boone County Regional Sewer District for some 13 years, I know the number of compliments you get and you might actually receive are damn few and far between, but I know you just are doing a good civil job. So please understand that this is meant to be a real compliment and a real thank you. I do mean that. I very much appreciate the dilemma that Mr. Lewis finds himself in with multiple tracts and parcels with split zoning. I would only point out that the original layout of this property originated with Mr. Lewis and not with you or any other public entity. There are consequences to ones' plans and actions. Peter Koukola, the current president of Cedar Lake Homeowners Association, wrote a letter yesterday, which I hope is in your packet expressing our concerns regarding the requested rezoning. Essentially, the Cedar Lake Homeowners Association is opposed to tract 11, the development of a gas station or fuel center with a convenience store. I know it is not your responsibility to determine the need for another convenience store in our neighborhood, but, if I may, I would like to share an observation. I had the opportunity to be in town this morning for a meeting, and I had to make sure the meeting was scheduled so I didn't -- was not fighting with the Rock Bridge students trying to get to school, or I did have the option of going north on Bethel. That is where you fight the mothers and the fathers dropping off the kids going to school. So it's a timing issue. And these traffic jams are a twice daily occurrence on both South Hampton and Bethel Street when school is in session. When I returned home today around noon, I hit the lights just right, the traffic lights, and noted the following -- and I hit it just right because I hit red lights at each of them. Okay. At Green Meadows, if you look off to the east, and there's Macadoodles and their service station and liquor store -- convenience store. Look off to the west, and I see the Phillips 66 convenience store next to Jimmy's restaurant there. So -- and I move on to the next light, and down it, down at Grindstone and Nifong. I look to the left -- let's see. I look to the west and I see the Phillips 66 convenience station down there that has the car wash next to it and I know directly across the street from it is MFA Break Time with the Jiffy Lube next to it -- convenient. I also then look to the east and I could see the Hyvee convenience store. I cannot see the Break Time that is farther down on Nifong, but, you know, the one across from WalMart. So there was six convenience stores within a mile or so of the property that is the subject of this discussion, this rezoning. Six. I would like you to know that we -- I say we, Cedar Lake Homeowners Association, Cedar Lake people, are very proud of many things on our end of town, including Bethel Park, Rock Bridge High School, Gentry Middle School, Rock Bridge Elementary School, the Columbia Public School Center of Responsive Education, the CORE, out there, all tried points that within a -- basically a half mile or so of this rezoning of tract 11. An additional convenience store I can assure you will not be a pride point for our neighborhood. So anyway, I thank you for allowing me to make these concerns known to you. I would be happy to answer any questions to the best of my ability, and I wish you good luck.

MS. LOE: Thank you for your comments. Are there any questions for this speaker?
Commissioner Burns?

MS. BURNS: Mr. Otto, I had a question for you. There are two other tracts, three and four, that are proposed for M-C zoning. Does your homeowners' association have issue with those?

MR. OTTO: No.

MS. BURNS: Okay.

MR. OTTO: No. It's -- it's really going to that corner up there, and actually on that corner they do have a pedestrian walkway. You can push the light or push the -- and you'll get a flashing light. High school students don't seem to know how to push that button because there is more of them running across there without a flashing light than should be, should occur. So we're concerned about we're down river, downstream from a possible spill, gasoline spill. We don't want that in our lake. We don't want that anywhere. Okay? And we're also concerned with the pedestrians through there. And if you want to have a bumper car experience, please come out there at 4:00 when the school is getting out and try to turn off of Providence onto South Hampton, because there's going to be cars that are turning right and right getting on the outer road, there are going to be cars trying to go straight. You're going to have traffic coming out of the school. And it's just a mess. It's just a terrible mess, and we don't need to compound that with putting a convenience store on that corner. That's our position.

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

MR. OTTO: Thank you.

MS. LOE: I think that covers all of our remaining public, so I'm going to close public comment.

PUBLIC HEARING CLOSED

MS. LOE: Commission comment?

MS. GEUEA JONES: All right.

MS. LOE: Commissioner Geuea Jones?

MS. GEUEA JONES: If no one has any comment, I will try to wade through these motions. Staff, I -- can we combine the way that they are listed here?

MR. PALMER: I think that's fine.

MS. GEUEA JONES: Yeah. So I don't have to do 11 votes, I can do four?

MR. PALMER: I would say if you wanted to do all of this, you could do three.

MS. GEUEA JONES: Then I should start with --

MR. PALMER: I thought they would have to deny --

MS. GEUEA JONES: I'll just do it by zoning.

MS. BURNS: That's -- I think that's --

MR. ZENNER: Do it --

MS. GEUEA JONES: Yeah.

MR. ZENNER: Do it by the R-MF, the M-C --

MS. GEUEA JONES: Yes.

MR. ZENNER: -- and the M-N --

MS. GEUEA JONES: Yeah. Yeah.

MR. ZENNER: -- you're recommending. And then if you're recommending denial on a tract, that's --

MS. GEUEA JONES: In the matter of Case 256-2021, Corporate Lake rezonings, I move to approve R-MF zoning on tracts one and two, as described in the staff report.

MS. RUSHING: Second.

MS. LOE: Second by Ms. Rushing. We have a motion on the floor. Any discussion on this motion -- this R-MF on tracts one and two? Seeing none. Ms. Carroll, may we have roll call, please.

Roll Call Vote (Voting "yes" is to recommend approval.) Voting Yes: Ms. Geuea Jones, Ms. Placier, Ms. Kimbell, Ms. Carroll, Ms. Loe, Mr. Stanton, Ms. Burns, Ms. Rushing. Motion carries 8-0.

MS. CARROLL: We have eight votes to approve; the motion carries.

MS. GEUEA JONES: I have a motion.

MS. LOE: Commissioner Geuea Jones. Sorry.

MS. GEUEA JONES: In the matter of Case 256-2021, Corporate Lake rezonings, I move to approve M-C zoning on tracts three and four, as described in the staff report.

MS. RUSHING: Second.

MS. LOE: Seconded by Ms. Rushing. Any discussion on this motion? This is M-C on tracts three and four. Seeing no discussion. Ms. Carroll, may we have roll call, please.

Roll Call Vote (Voting "yes" is to recommend approval.) Voting Yes: Ms. Geuea Jones, Ms. Placier, Ms. Kimbell, Ms. Carroll, Ms. Loe, Mr. Stanton, Ms. Burns, Ms. Rushing. Motion carries 8-0.

MS. CARROLL: We have eight votes to approve.

MS. LOE: Commissioner Geuea Jones?

MS. GEUEA JONES: I have a motion. In the matter of Case 256-2021, Corporate Lake rezonings, I move to approve M-N zoning on tracts five through ten, as described in the staff report.

MR. STANTON: Second.

MS. LOE: Moved by Commissioner Geuea Jones, seconded by Commissioner Stanton. This is M-N on tracts five through ten. Any discussion on this motion? Seeing none. Ms. Carroll, may we have roll call, please.

Roll Call Vote (Voting "yes" is to recommend approval.) Voting Yes: Ms. Geuea Jones, Ms. Placier, Ms. Kimbell, Ms. Carroll, Ms. Loe, Mr. Stanton, Ms. Burns, Ms. Rushing. Motion carries 8-0.

MS. CARROLL: We have 8 votes to approve.

MS. LOE: Ms. Geuea Jones. Are you making this motion in the affirmative?

MS. GEUEA JONES: Correct. Yes. I have a motion. In the matter of Case 256-2021, Corporate Lake rezonings, I move to approve the M-C zoning on tract 11. I will be voting no.

MS. RUSHING: Second.

MS. LOE: Seconded by Ms. Rushing. This is M-C zoning on tract 11. Any discussion on this motion? Seeing none. Ms. Carroll, may we have roll call, please.

Roll Call Vote (Voting "yes" is to recommend approval.) Voting No: Ms. Geuea Jones, Ms. Placier, Ms. Kimbell, Ms. Carroll, Ms. Loe, Mr. Stanton, Ms. Burns, Ms. Rushing. Motion fails 8-0.

MS. CARROLL: Eight votes to deny.

MS. LOE: Thank you.

MS. GEUEA JONES: Do we want to make --

MS. LOE: Do we want to --

MS. GEUEA JONES: I'll make the motion. We can discuss it.

MS. LOE: Okay.

MS. GEUEA JONES: I have one final motion. In the matter of Case 256-2021, Corporate Lake rezonings, I move to rezone the M-OF portion of tract 11 to M-N, and revise the legal description accordingly.

MS. BURNS: Second.

MS. RUSHING: Second.

MS. LOE: I'm going to say Commissioner Burns just edged you out, Ms. Rushing, to give us a second. Okay. We have a motion on the floor to eliminate the split zoning on tract 11 by assigning it M-N. Any discussion on this motion? Commissioner Geuea Jones?

MS. GEUEA JONES: In the tradition of Commissioner Stanton, I think this gives them a win-win. They can put their convenience store in, and if they want to put electric charging stations in or whatever, they can get the CUP. But at least this way they can move forward and get an economic benefit out of that tract. I think it's a decent compromise.

MS. LOE: It would give them a zoning.

MS. GEUEA JONES: Without -- yes. Yeah.

MS. LOE: It would eliminate the split zoning.

MS. GEUEA JONES: Without the split. Yeah.

MS. LOE: Mr. Zenner, any thoughts on --

MR. ZENNER: The alternative recommendation was offered just for that purpose.

MS. LOE: All right.

MR. ZENNER: So I -- I concur with Ms. Geuea Jones' assessment. It is something that would allow them the opportunity to more productively use the sliver that is M-OF with the remaining portion of the property.

MS. LOE: Commissioner Burns?

MS. BURNS: The neighbors were against the traffic that even a convenience store might generate, so a negative vote on this, what would that do? What if we did not vote to support this?

MR. ZENNER: If you did not vote to support the rezoning of this -- of the M-OF sliver, the

property would remain as it is. The convenience store, depending on its configuration, still can go on the M-N parcel that exists, it is just going to be more significantly constrained. I think, as Mr. Gebhardt pointed out, and I believe it would be still generating the necessity for a traffic study which is going to result in some type of traffic management improvements likely needing to be made at Executive and South Hampton regardless. I think when we look at the broader perspective or the broader -- the broader usage of the land as a whole, the rezoning is appropriate given that we are allowing the features associated with the development of the tract of line, onsite stormwater and other issues, to be more readily absorbed under the same zoning district. So again, while there is the ability today to do a retail store, it would be constrained in its size. It's not going to be significantly increased in size by adding this sliver of M-OF of which a portion -- a good portion of it is probably sitting in the lake. So as Mr. Gebhardt pointed out, about half to a quarter of an acre of the overall property of this tract is not even developable.

MS. BURNS: Just for my fellow Commissioners, I don't plan on supporting this because I am being respectful of the correspondence and testimony that we heard here tonight. So just FYI.

MS. LOE: I concur with Commissioner Burns, actually, on this one. So, all right. Any additional comment? Discussion?

MS. GEUEA JONES: I -- sorry. I would just -- well, anyway, I -- I think they can already do a convenience store here, and it is a waste of that. It's probably a quarter of an acre that would be M-OF -- it would just be sitting unused, which is why I know the neighbors don't want to see the gas station there, South Hampton is going to have to be expanded at some point. But I don't see any overall benefit to having a sliver of land that is unusable because it is sandwiched between two zoning districts and is too small to have an independent use. So that's -- that's kind of where my head is at. It may also just be my OCD that that's not zoned the same as the rest of the parcel and I hate split zoning. But that -- that's my logic, and I think that there is a huge difference between drive-through gas pumps and a no gas.

MS. LOE: Commissioner Carroll?

MS. CARROLL: I'm in the same place. I want to respect the neighbors. I think your input is important, and I understand where you're coming from. I -- I think what's already allowable in the M-N doesn't change significantly by including that tiny sliver of M-OF, and we still have control through the CUP process and oversight should they wish to pursue a gas station at a later point. I really dislike split zoning and I understand that that is not an action that was imposed by this body, but it is still something that would be better addressed now. So I would actually support this.

MS. LOE: And have we resolved the issue of parking lots going over a property line yet?

MR. ZENNER: Yes. That issue has been resolved.

MS. LOE: That has been resolved. So they could actually run a parking lot over that property line, but --

MR. ZENNER: The -- the problem with that, however, Ms. Loe, is based upon the M-OF zoning classification --

MS. LOE: Uh-huh.

MR. ZENNER: -- the M-OF district does not permit a convenience store. Therefore, the parking lot associated with that use would not be able to be on that site.

MS. LOE: All right. Then -- then I would have to say that they're getting caught up in issues that have come to fruition since they created the plan, and it does seem a bit punitive. All right. Any further -- Commissioner Placier?

MS. PLACIER: Yes. Well, what's wrong with saying that the whole thing should be M-OF then if we are trying to eliminate split zoning, and then it could be a less intensive usage that would not create the traffic problems that the neighbors have pointed out? I know that's not their -- in any way their request and it would deny the possibility of the convenience store gas station, but I'm not sure that's a great thing to have there.

MS. LOE: You're -- no, you're right. The convenience store is still an in and out, and they didn't request it.

MR. ZENNER: So procedurally -- to address this question procedurally, since it has not been advertised as M-OF and while it is a far more restrictive zoning classification, without the consent of the applicant to downzone or to accept that request, you cannot just up and change what they've applied for.

MS. LOE: We -- we understand, Mr. Zenner. I think --

MR. ZENNER: I could -- I'm --

MS. LOE: Commissioner Placier is simply pointing out that there is more than one direction this could go in.

MS. PLACIER: Yeah.

MR. ZENNER: Okay.

MS. PLACIER: If we're eliminating split zoning, we could --

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

Roll Call Vote (Voting "yes" is to recommend approval.) Voting Yes: Ms. Geuea Jones, Ms. Kimbell, Ms. Carroll, Ms. Rushing. Voting No: Ms. Placier, Ms. Loe, Mr. Stanton, Ms. Burns. Motion is tied 4-4.

MS. CARROLL: We have one, two, three -- four votes to approve and four votes to deny.

MS. LOE: We are missing one, so that would be a tie vote on that one. No decision on that one, which reflects the discussion, I think.

MS. CARROLL: Yeah.

MR. ZENNER: And that will be forwarded to City Council as the alternative recommendation on the denial.

MS. LOE: All right. Those recommendations will all be forwarded to City Council, and non-recommendation.