

EXCERPTS
PLANNING AND ZONING COMMISSION MEETING
January 9, 2019

Case Number 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 S.E. and Upland Creek Road. The subject property is addressed 5300 I-70 Drive S.E.

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.