

**BOARD OF ADJUSTMENT MEETING  
COLUMBIA CITY HALL COUNCIL CHAMBER  
701 EAST BROADWAY, COLUMBIA, MO  
APRIL 14, 2026**

**COMMISSIONERS PRESENT**

**Mr. Peter Norgard  
Ms. Janet Hammen  
Mr. Randy Minchew  
Ms. Charlisa Gaines  
Ms. Kittie Rogers**

**COMMISSIONERS ABSENT**

**STAFF**

**Mr. Pat Zenner  
Mr. Jesse Craig**

**I. CALL TO ORDER**

MR. NORGDARD: All right. We're going to go ahead and call the April 14, 2026 Board of Adjustment meeting to order.

**II. INTRODUCTIONS**

MR. NORGDARD: Mr. Liaison, would you please call the roll?  
MR. ZENNER: Yes. Mr. Norgard?  
MR. NORGDARD: Present.  
MR. ZENNER: Ms. Hammen?  
MS. HAMMEN: Here.  
MR. ZENNER: Mr. Minchew?  
MR. MINCHEW: Here.  
MR. ZENNER: Ms. Rogers?  
MS. ROGERS: Here.  
MR. ZENNER: And Ms. Gaines?  
MS. GAINES: Here.  
MR. ZENNER: You have a quorum of five.  
MR. NORGDARD: Thank you.

**III. APPROVAL OF AGENDA**

MR. NORGDARD: Is there a motion and a second to approve the agenda?  
MS. HAMMEN: So moved.  
MR. NORGDARD: Moved by Hammen.  
MR. MINCHEW: Second, Minchew.  
MR. NORGDARD: All -- is there any discussion on this? Okay. All in favor, say aye. Any opposed? (  
(Unanimous voice vote for approval.)  
MR. NORGDARD: Agenda approved.

**IV. APPROVAL OF MINUTES**

MR. NORGDARD: So the February 10, 2026 meetings were distributed to the members of the Board. Are there any corrections or additions to the minutes? No. Okay. Is there a motion and a second to approve?  
MR. MINCHEW: Motion, Minchew.  
MS. GAINES: Second.  
MR. NORGDARD: Second, Ms. Gaines. All in favor, say aye. Any opposed? Seeing none.

(Unanimous voice vote for approval.)

MR. NORGARD: The minutes are approved. Will the court reporter please swear in staff?  
(Staff sworn.)

MR. NORGARD: All right. We're going to start and end with Case Number 110-2026.

## V. PUBLIC HEARINGS

### Case #110-2026

**A request by Jose Caldera (attorney), on behalf of Lavyank, LLC (owner), seeking approval of a 17-foot variance to allow construction of a new 68-foot tall hotel on proposed Lot #4 of the Armstrong Subdivision that will be located north of Interstate 70, south of Clark Lane, east of the "Links" Apartments, and west of Lot 1 of Logan Acres, containing 2.56-acres and commonly addressed as 5320 Clark Lane such that said hotel may exceed the permitted building height by 16 feet and permitted parapet height by 1 foot, which is not permitted per Section 29-4.1, Table 4.1-2 and Section 29-4.1(c), Table 4.1-4, respectively, of the Unified Development Code.**

MR. NORGARD: Mr. Liaison -- or I guess I'll ask the Board first. Do any of you have anything to disclose regarding this case? None. Okay. Pat, would you please answer if the notice has been properly advertised?

MR. ZENNER: Yes, it was.

MR. NORGARD: And has it been properly posted with a notice of public hearing?

MR. ZENNER: Yes, it was.

MR. NORGARD: And have parties of interest been notified?

MR. ZENNER: Yes, they were.

MR. NORGARD: And were there any inquiries?

MR. ZENNER: No, there were not.

MR. NORGARD: Okay. Would the person making application please come forward, state your name and address, and be sworn in by the court reporter.

MS. LAMAR: Phebe LaMar, 111 South Ninth Street.  
(Witness sworn.)

MS. LAMAR: Good evening. My name is Phebe LaMar; I'm here on behalf of the petitioner in this matter, and I -- this evening with me, I have Tim Crockett, who is going to do a presentation, and then Mike Patel, who is on behalf of the petitioner, is also here.

MR. CROCKETT: Tim Crockett, Crockett Engineering, offices at 1000 West Nifong.  
(Witness sworn.)

MR. CROCKETT: Chair, members of the board -- there we go. Okay. So tonight we're here to discuss a 2.5 -- excuse me -- 2.56-acre tract currently zoned M-C. That was preliminary platted and rezoned in August of 2025. The proposal before you tonight is for a five-story, 109-room hotel adjacent to I-70. We're right off the Lake of the Woods interchange just north of I-70. Now we're requesting relief to Section 29-4.1(a), Table 4.1-2 due to the height of the building, and then also to Section 29-4.1(c)(1), Table 4.1-4 for the height of the parapet. And so there's two items there. First of all, the height of the building, and then a slight increase in the parapet. The reason for the parapet is we -- you put your rooftop units and allow your mechanical equipment on your hotel, you put them up there, and that screens them from public view, both visually as well as noise. Again, the tract was recently rezoned from M-N to M-C for the use of a hotel in 2025. A preliminary plat was also a part of that. So what's the purpose of -- of this variance? Well, it's so that we can construct a five-story hotel. The original hotel user, I think staff will -- in the staff report talked about the original idea here was we were going to have a four-story hotel that fit on the property, and that is true. When we got it all through, that original hotel user kind of slid aside and that wasn't a viable option anymore, and so the new hotel end user is -- is desiring a five-story hotel. A new hotel user needs expanded floor plan amenities and units for the site. So instead of having a really small compact hotel that's four stories, they wanted something that's a little bit nicer, has some more meeting space and more community space and some more hotel rooms in that location. Construction cost, land cost, and development cost encourage a more compact design utilizing going up rather than going out. We're seeing that more and more. All of our developments we hear, you know, let's get more density, let's go be more compact, and let's go vertical. Let's look at going vertical as opposed to sprawling out. And so that's part of the reason. We're not looking -- we can do a

four-story hotel. We're actually wanting to go to a five-story, so we're not looking to try to go to a ten-story or an eight-story or a twelve-story. We simply want to add one additional floor to this hotel. This is a copy of the preliminary plat that was approved by the City Council in August of '25. Our subject property is right here. So to give you a little context to where this location is, to the north of us is Clark Lane that runs through there. Here we go. So again, the green or -- yeah, the green star is our location. That street that runs north and south right above the green star is the proposed street in our development. And then the building that's just to the right, that's the new Schnuck's that's out at Lake of the Woods. So right adjacent to a high commercial location. The idea here is is, you know, what's compatible with the neighbors. We have multi-family, high density multi-family residential neighborhood to the left or to the west. And so a hotel user is a quiet user, low impact user, very -- you know, not a lot of cars on a traffic standpoint, and it's a good use -- step-down use from the higher uses of the McDonald's, the C stores, the other QSRs, and the high use restaurant -- or, excuse me -- grocery store that's further to the west. We do believe this is a nice compatible use. This is the preliminary site plan layout on this site, so it kind of fills this site up. As you can see, we're not pushing the property lines with the building, but putting them rather in the middle of the site for the most part. We're -- we don't want to crowd the property lines. Here's an elevation of the -- of the building, so you can kind of see it does have some architectural detail. It has -- is breaking it up both with material and with -- with, you know, projections, so it's not just going to be one big blob building. A couple of elevations of the site, so this is the proposed building that -- or the proposed hotel that we want, and then the needed height that we have. And so this comes from -- from their standard plans that we're looking at. Again, the two sections that were previously mentioned are the two sections that we're looking for relief for. One is for the 45-foot-tall building to go to a 61-foot-tall building, and then go from a six-foot-tall parapet to a seven-foot-tall parapet. Again, you've seen this. I showed this to you before. But I want you to pay attention to this area as I flip through these slides. So what this is is you've got -- you've got the planned view on the top, and then this down here on the bottom is more of a profile view. Right here, the top elevation of our building is going to be somewhere around 874 -- elevation 874 for our building. Now one thing to keep in mind, so I'm going to scroll back -- scroll back just a little bit. This site is the lowest portion on the entire piece of property. It sits low. Our original concept, our original thought was we wanted to put that hotel further to the north on the high point, so we had better visibility. The issue with that is, and staff convinced us otherwise, to push it down here because it had more impact with the neighborhood across the street to the north, and we understood that and we agreed with that. And so, consequently, when we rezoned for this, we pushed it down here to the south adjacent to I-70. Consequently, it's also the lowest point of the site as opposed to being the high point of the site, which is, like, 25 feet higher, maybe 30 foot higher than what this site is. So it's substantially higher than the site that we're proposing to put this on. Again, top elevation 874. The adjacent residential -- high density residential apartments is about 837, so there is some vertical difference there in those units, but they are, you know, two -- there are two-story multi-family residential development. The elevation of the new Schnuck's store is around an elevation of 862, so it's comparable in height to where ours -- our building would be even though that it's a single-story and we're proposing a five-story, we're down the hill in a hole quite a bit. And then lastly, if you look over here, it's kind of hard to tell what that is. That elevation 855 and elevation 834, that corresponds to the interchange of I-70. So the highway is around 834, but the elevation of the overpass currently is about 855. So, yes, we are going to protrude above that. That gives us some visibility above the interchange, but it's not five stories. It's only -- it's about 20 feet. So it's not going to be this large building that stands up above the interchange of I-70, but it does provide some visibility. This is not unlike a variance request that was granted out, so I call it the Chalet tract, out at 63 and Grindstone some time ago. And that hotel got relief because, again, it was sitting down in a hole adjacent to the interchange. I'm going to give some examples of some other hotels in the area. And this is -- a five-story hotel is not uncommon. This is the Holiday Inn that's right -- it's literally a quarter mile from the site, catty-corner from this site at this same interchange, here is that building. And again, it's a five-story hotel very similar to what we're -- what we're looking at. Here is one down the street from us, a little bit further down. Again, I believe that's the Hampton; that's a five-story hotel. And I'm not using this as an example, but we all know the Drury Plaza, and that's like eight stories. We're not looking for something that massive, that large, but it is a multi-story or, you know, several stories above the allowed height in that typical zoning classification. We're not looking for anything like this, but taller hotels are in the area. So it's not uncommon to have a five-story hotel in this vicinity. So to conclude, we believe that this development is appropriate for the

area. It's a step down from the high intense commercial uses of the grocery store, the McDonald's, the Sonic, the C-stores at that location. It's a step down to the residential neighborhood. Other uses that we can put in M-C could be QSRs or restaurants, bars and nightclubs, and that kind of use, and that's not what we intend. We want to have a hotel at that location, and that's the reason why we rezoned it. That's what our intent is, and that's what we're trying to do. But we believe that that hotel is a good compatible use with the residential neighborhood that's to the west, the high-density residential to the west -- excuse me. Again, the selected location is the lowest point of the property. That wasn't by design, it was basically, hey, let's pull this away from the north, push it to the south, consequently, it's the lowest point. And so getting a little relief would be appreciated to help with the development of this piece of property. Again, our hotel will be set back about 130 feet from any adjacent apartment building. So we're not on our property line, we're not cramming right up next to it. We're about 130 feet away from that -- from the nearest residential structure, and that's substantial. Normally, our normal setback in this situation, I believe, would be ten feet with the idea that we would only be able to go to a certain height, and then we would go back a little bit further to -- to achieve that 45 feet. But we're more than twice the distance that we would need to get that 45 feet, I believe. And again, there's other similar hotels in the area. So with that, I'm happy to answer any questions that the Board may have. We believe that this is a good -- a good location for this. We're not seeking relief to go two, three, four stories. We're simply trying to get that one additional floor in our hotel. So with that, I'm happy to answer any questions. Yes, ma'am?

MS. HAMMEN: So what's the zoning for the Holiday Inn and the Hampton Inn?

MR. CROCKETT: I'm -- I can't speak exactly, but I believe -- Pat might be able to help me, but I believe that the Holiday Inn was probably done in a planned zoning district? No?

MR. ZENNER: So the other hotels in the surrounding area are all in what was formerly C-3, now M-C, the same category as the subject site.

MR. CROCKETT: So do they -- then they -- they sought and got relief through the Board of Adjustment for --

MR. ZENNER: At the time that those hotels were built, as stated in the staff report, measurement of height was different. It was measured from one of three different elevation points.

MR. CROCKETT: Okay.

MR. ZENNER: Highest curb elevation is most likely what was the resultant height, and the staff report goes into great detail of the heights of each of those hotels that were referenced.

MR. CROCKETT: Right. Okay. So -- so to answer that question, Ms. Hammen, so the height of the hotel, this 45 feet for this piece of property is measured from the average grade plane around the hotel, which makes sense. Right? You take -- what is the average elevation around your building, and you can go up your 45 feet at that location. When those hotels were constructed, what they did is they measured the starting point at the adjacent street grade. So in this case, since we would have access to that to our cul-de-sac bulb, you would either be the cul-de-sac bulb, which sits higher than our site. So if that cul-de-sac bulb was sitting 15 feet above our hotel, which would be sitting down in the -- in a hole, then it would be measured from that 15 feet higher, and then go 45 feet from there. So we can get a taller building in a 45-foot height limitation. So that's how those hotels were able to be built in that situation. So they were using a different type of measurement, a different -- the bar was set a different location, if that helps answer your question.

MS. HAMMEN: Were you working with -- when the preliminary plat came up for rezoning, were you --

MR. CROCKETT: Yes, ma'am.

MS. HAMMEN: -- aboard on that?

MR. CROCKETT: I was.

MS. HAMMEN: But that's a different company?

MR. CROCKETT: Well, it was a different -- a different end user on the hotel, is what it was. And so they were looking at -- and that one had kind of -- had slipped away after the -- sometime. I mean, it's been a little bit, and so we looked at that and then, you know, the next option was someone was looking at this -- for this -- for this branded hotel.

MS. HAMMEN: What zoning could you have pursued now to get a five-story hotel?

MR. CROCKETT: Planned zoning.

MS. HAMMEN: That's the only thing?

MR. CROCKETT: That's the only option that I see, planned zoning or come get relief through the Board of Adjustment.

MR. NORGARD: So is this cul-de-sac currently existing?

MR. CROCKETT: No, sir. It's not.

MR. NORGARD: That's AI?

MR. CROCKETT: Yeah. That's -- yeah. That's just -- just our CAD file that shows the proposed street to give you an idea of the other commercial lots in the development.

MR. NORGARD: So you indicate this is a -- a good fit because you think that the residential nature of the surrounding area would -- is a good mix with this particular structure?

MR. CROCKETT: Yeah. I believe so.

MR. NORGARD: How do you respond to -- well, I guess, what are the plans for the undeveloped plans?

MR. CROCKETT: That is a step down in zoning, so that's M-N, so that's more neighborhood style commercial uses. So it takes away all the heavy intense uses -- the commercial uses, although the car wash is the -- you know, those type uses are not allowed in that zoning classification. That's the reason why we did not get or did not seek M-C for the entire piece of property because, first of all, that's not what we were wanting, and, secondly, I don't think we probably would have got M-C adjacent to the -- the multi-family residential, but we never sought that and we never asked for -- for total M-C on the site. But that would -- help with that is that this is a neighborhood classification, and not the corridor commercial for the rest of it. And that was existing zoning, Mr. Norgard. That had been there for -- I don't know when it was rezoned, but it's been there for quite some time.

MS. HAMMEN: What was -- what was N-M?

MR. CROCKETT: M-N? This entire --

MS. HAMMEN: No. It had been there for a long time, and you just changed the zoning to M-C on that last parcel?

MR. CROCKETT: This is just for the hotel parcel. Yes, ma'am.

MS. HAMMEN: Okay. So the climax forest that's on one of those lots --

MR. CROCKETT: Uh-huh. Yes, ma'am.

MS. HAMMEN: So what's the significance of that?

MR. CROCKETT: A climax forest, and you can see it just right -- and the pointers don't really work, but you can kind of see just to the up and to the left of -- of the green star, there's that little shaded area. The City has a provision for a climax forest in any -- any area of upland hardwood trees, a grouping of them that meets a certain size limitation and meets a certain density classification for those trees, is considered climax forest. And the City requirement says that we have to preserve a certain percentage of that climax forest on every project that we develop. This so happens to have a -- barely meets the limitations of what a climax forest is, but it's still there, and so we have to preserve a percentage of it, and that's the -- that's the area that we're preserving is up against the residential neighborhood.

MS. HAMMEN: So -- so Lavyank owns the entire six -- two, four, six, seven parcels?

MR. CROCKETT: Yes. Yes.

MS. HAMMEN: So what could they put into the parcel with the other climax forest in there?

MR. CROCKETT: A retail office -- or office building, a retail center, a neighborhood restaurant, you know, anything along those lines. Because the climax forest itself is just that -- protect that shaded area. And the -- and we work closely with the City Arborist. We have to put up certain kind of protections around it during construction, preserve it. We've got to stay a certain distance away from it, and so the City Arborist approves our plan -- reviews and approves all of our plans, and has option to go to the site anytime he wants to make sure it's being preserved.

MR. NORGARD: So when I read your additional application, I saw a lot of fairly heavy reliance on this being an ADA compatible development and that was what was driving a lot of the decision behind going down this path. Could you address that?

MR. CROCKETT: Sure. So when we look at this site, I mean, by -- we can sprawl it and go further out. But you can look, and this -- this exhibit doesn't show -- it shows it, but it's hard to see, but it has a lot of relief to it. So the further we go out, like I said, and again, I wish I had a pointer that worked. But about -- the ridge of the development is about two lots from the -- from the north to the top of the page. That's the ridge. And from that point, there's --

MS. HAMMEN: Say that again.

MR. CROCKETT: The ridge, the top of the hill --

MS. HAMMEN: Uh-huh.

MR. CROCKETT: -- on this piece of property --

MS. HAMMEN: Yeah.

MR. CROCKETT: -- is about two lots down from the top of your page. From that point, it starts dropping down to this -- this lot, to the low point of this -- of this lot. So in order for us to really develop the site and go outward, we're trying to build a flatter surface on a steeper slope. Okay? So that takes a lot of grading, a lot of retaining walls. It's difficult to do that. So if we can go flatter on a smaller footprint, but go up, we can still achieve the same densities that we need, Mr. Norgard, without having to push our limits and go further and further out with the grading issues that we have, due to the topography of the site. And so, obviously, we have to meet ADA, we have to meet all those requirements, but if we have a steeper site, it makes it much more difficult, especially if we have other amenities on the site we're trying to -- you know, outdoor courtyards and those type areas, the smaller footprint makes it more compatible than saying, okay, well let's go to four stories, but then let's just push that site even further out. It makes it difficult to get the parking lot and all the access points and all the doorway locations at grade at those locations because the grade is much steeper, if that makes sense.

MR. NORGARD: I understand your argument. That's not exactly what I'm seeing in the denial letter response, Exhibit A.

MR. CROCKETT: Okay.

MR. NORGARD: I'm just -- I'm trying to clarify what's in there, because I'm -- I'm a little confused. So it states, you know, in response to 29-6.4 (d)(2), requirement for variances, number -- letter A. This is the one where we talk about practical difficulties and unnecessary hardships. And it says this -- this variance is required to address practical difficulties and unnecessary hardship unique to the site. It's designed to serve guests of various physical abilities, ages, and mobility needs which necessitates wider circulation areas, accessible room layouts, compliant restroom configurations -- I won't read more, but I guess that's the -- what I'm asking. How does that --

MR. CROCKETT: Well, and I think there's a lot of things that got grouped into that. I mean, items like compliant restroom configurations and had -- you know, that kind of stuff. I don't think that necessarily applies nearly as much as the enhanced common areas and spacing, you know, let me see, with the mobility needs. I think it's those -- those courtyard areas. The exterior side is really what we're really most focused on than the actual room layouts and the accessible interior portions of the building. It's more the exterior side of things.

MR. NORGARD: Okay.

MS. HAMMEN: So I'm guessing that at the top of the hotel, we saw two views where there's signage. I guess, one, what, facing north and one facing east. Was that -- is that correct?

MR. CROCKETT: I believe -- I believe that -- I believe that -- I believe one would be facing south, Ms. Hammen.

MS. HAMMEN: Oh, south. Yes. That's what I mean.

MR. CROCKETT: And then one would be facing --

MS. HAMMEN: South.

MR. CROCKETT: Right. One would be facing east.

MS. HAMMEN: Okay.

MR. CROCKETT: So one would be facing to the right of your page, and one would be on the bottom of your page.

MS. HAMMEN: Uh-huh. Okay. And is there -- can there be unlimited signs placed on these buildings?

MR. CROCKETT: There are sign regulations of the City of Columbia, and we would abide by the sign regulations.

MS. HAMMEN: Yes. So could more signs be placed on this building?

MR. CROCKETT: We'd have to look at the sign regulations specifically, but, no. We would -- we would be in compliance with the sign regulations. I don't think we --

MS. HAMMEN: I'm sure you would be. So -- so if -- if these signs are lighted, and I'm sure they will be. Right?

MR. CROCKETT: Quite possibly, but they're -- yes. I would say that at leastwise one would --

would probably be back-lit.

MS. HAMMEN: And do you know how far the lighting would travel at night?

MR. CROCKETT: I don't, but again, we have certain regulations that state how much that light can -- we can't let it overflow. We can't let it come off of the property. We can't let it be a -- you know, a point source that's going to be blinding or obtrusive to the residential neighborhood. Obviously, we're not having anything facing that residential neighborhood. It would just be coming -- coming south or east. But the sign -- the sign regulations are one thing, but then lighting regulations, regardless of whether it's parking lot lights, wall packs on the buildings, awning lights, canopy lights, lights from signs, all of that lighting is covered in the lighting ordinance of the City of Columbia that says how much we can have crossing the property line, so we can't have too much that comes over.

MS. HAMMEN: Perhaps I'll ask Pat about this, but Boone Hospital has lighting that shines in my neighbors' houses, Academy Sports has lighting that shines, and that's, what, two miles away, that shines in my neighbors' houses.

MR. CROCKETT: Right. Right. And those developments, again, may have been done before the -- before the UDC and the lighting ordinance. I will tell you, Ms. Hammen, how this -- how this works is that before say a project like this gets built, the mechanical -- the MEP engineer, and the mechanical electrical plumbing engineer has to submit lighting calculations for the building permit that illustrates how much candle power is going to be on the parking lot and how much spillage you're going to have to illustrate that it conforms to the City regulations. And then, not only -- not only that, but then before they can take occupancy of this building, that MEP engineer has to go out and certify that he's gone out there and he has measured, and they're in compliance with the lighting regulations. So it's not just something that the City takes for granted and that we all just kind of sweep under the carpet. It's a -- it's a very legit and very -- very well thought out item. So it's -- it's -- the City does a good job in enforcing that.

MS. HAMMEN: Good. Thank you.

MR. CROCKETT: Okay. Thank you.

MR. NORGARD: Thank you, Mr. Crockett.

MS. HAMMEN: All right. Is there anybody else in the audience wishing to speak in favor of this application? Please come forward, state your name and address, and be sworn in.

(Witness sworn)

MR. PATEL: Mike Patel. Legal name is Mayank Patel.

MR. NORGARD: Into the microphone.

MR. PATEL: My address is 4008 Blue Hollow Drive. I live in Columbia, Missouri.

(Witness sworn.)

MR. PATEL: So on the light questions, I own a hotel, Springhill Suites by Marriott, not too far from the site that we're doing, and I'm a part owner of Lavyank, LLC, the site that we are developing it. So question on your lights, because it sits on the building and the rooms are right next to it, so if it -- the franchise in this case, this is going to be Hilton, they will not allow us to have bright light that travels into the room because that will disturb the customers or the guests, so it won't be that bright, as you mentioned what is going on in the neighborhood. So it -- these will be back lighted, unless they change it, as far as I know. And they have a light behind it, so it's very lit so people who are traveling interstate or going around, they can see it.

MR. NORGARD: Thank you. Is there anybody else wishing to speak for this application, please come forward now. Seeing none. Is there anybody wishing to speak against, please come forward now.

MR. COLBERT: Thank you. Mr. Chair, members of the Board, Caleb Colbert, attorney, at 1203 West Broadway. I'm here tonight on behalf of a neighbor, MM2, LLC.

(Witness sworn.)

MR. COLBERT: All right. So in your exhibit packet, there are four exhibits, A through D. A is the printout from the parcel viewer of the County Assessor. Exhibit B is the concept review request for this property. Exhibit C is the preliminary plat, and Exhibit D is the rezoning application. And at this time, Mr. Chair, I would offer those into evidence or into the record.

MR. NORGARD: Yes. Thank you.

MR. COLBERT: Thank you. So again, I'm here this evening on behalf of MM2, LLC, which is the property owner to the southeast of the property that we're speaking about this evening. First, I want to say on the record that my client's property is approximately three acres in size, and is also zoned M-C.

And so if the board is persuaded by the reasoning for granting a 16-foot height variance for the applicant's site, you can anticipate that I will be back in front of the Board asking for the same relief for my client's property because it is identical zoning, it is adjacent. So if it's good on one side of the property line, it should apply with equal force to my client's property. So that being said, we are asking the Board to deny the requested variance. At the end of the day, we've talked many times over the years that variances are appropriate to address substantial hardships or practical difficulties related to the applicant site that are not created by the applicant. When you look at what I have included in the exhibits, it's clear that this site was created by the applicant over the course of the last year and a half. When you look at Exhibit A, that is printout of how the property exists today. It has not been final platted. This property is not a final legal lot eligible for building permits. It is subject to a preliminary plat only. Right now, this large acreage tract could be adjusted, lot sizes could be modified to accommodate the applicant's proposed development. So right out of the gate, this is a situation that is created by the applicant. It's not unique to this particular property. If we look at Exhibit B, that is the initial concept review request for this particular property. The third page of Exhibit B lists all of the initial proposed uses for this property. The hotel was on a completely different -- in a completely different location on this site. So the applicant, for whatever reason, and even if it's with staff input, even if it's with other input, they chose this location for a hotel. You'll see that in the initial proposal, the hotel was located closer to Schnuck's, further away from the interstate, closer to Clark Lane. At the end of the day, they chose the site that they're now complaining about to locate this particular hotel. Again, that is the situation created by the applicant. Exhibit C is the approved preliminary plat. Again, that preliminary plat can be modified. Lot lines can be changed to accommodate, you know, the applicant's desire here, the situation that was created at -- the preliminary plat is not even a year old. So that it's clearly a situation of the applicant's own making. Finally, we have the rezoning request, Exhibit D. Again, just to illustrate that this property was originally zoned M-N, and they requested the M-C zoning district, knowing full well what the applicable height requirements or height restrictions would be, how the height restrictions would be calculated, and they still chose the M-C zoning district. They could have pursued the PD zoning if they -- if they so chose, and they didn't, and they chose the M-C zoning district knowing the rules that they were going to have to comply with. So at the end of the day when you look at the variance criteria, I mean, it's very cut and dried that the situation cannot be created by the applicant. It cannot be a situation applicable to similar sites or applicable to similar uses. What about the ADA issue isn't true for every hotel user. Right? I mean, all of those impact design, wider common areas, better amenities, that would be true for every hotel user. That is not anything unique to this particular site. So I think at the end of the day, the question the Board has to ask itself is, is it possible to build a hotel on this site that complies with the maximum building height. If the answer to that is yes, there is no justification for a variance. A hotel can be built here, just not five stories. And in those circumstances, a variance is not appropriate. Anyway, I would be happy to answer any questions.

MS. HAMMEN: I would just like to say, as you know, whatever we decide here does not set a precedent.

MR. COLBERT: Yes, ma'am.

MS. HAMMEN: So you might come forward, but you would have the same -- be judged on the same criteria, I would suggest, whether I'm on the Board or not.

MR. NORGARD: Questions for Mr. Colbert? Thank you.

MR. COLBERT: Thank you.

MR. CRAIG: Mr. Colbert, before you go, as these are -- sorry. As these are your exhibits, if you would like to move for the Board to enter them in --

MR. NORGARD: Yeah. He did.

MR. CRAIG: He did. Oh, I'm sorry. I missed that. Never mind.

MR. NORGARD: And I -- I accepted them.

MR. CRAIG: Okay.

MR. NORGARD: Is there anybody else in the audience wishing to speak for or against this application, please come forward now.

MS. LAMAR: A few things that were -- I'm sorry. I was already identified.

MR. NORGARD: Yeah. You're already sworn in.

MS. LAMAR : Yeah. A few things that were identified and mentioned in the last presentation that I would like to just give a quick response to, if you don't mind.

MR. CRAIG: Ms. LaMar, before we go on, can you just for the reporter state your name again, just to make sure --

MS. LAMAR: Okay. Sure. Phebe LaMar. The first thing I'd like to point out is this situation really was not created by the applicant. The applicant has a site in consultation with the City staff, and because of the uses that surround this site, it was determined that the only reasonable place to place M-C zoning was on the -- on the location where this -- where this lot is located. As a result, it was -- it was zoned M-C. It was zoned M-C with the understanding that it would -- that he -- and he had an end user who said they would build a four-story hotel. That end user disappeared. There aren't other end users who have any interest in a four-story hotel. Interestingly, the site that Mr. Colbert's client owns that's right next to this is 10 to 12 feet higher than the site that my client owns, which means that, in fact, he could put a four-story hotel and it would be approximately the same height as what my client is asking that you all approve. So there is a difference in the -- in the situation between the two sides that gives rise to a hardship that had nothing to do with anything that my client has done. At the end of the day, yes, they got the zoning. They got it a year ago. They had an end user at that time. They no longer have that same end user, and haven't been able to find another one who is willing to build a four-story hotel. This is a hardship and it's one that is not the same as any other property in this area. As Mr. -- as Mr. Crockett showed you, the proposal for this is only about ten feet higher than what the one-story Schnuck's building is that's just on the other side of this property. This -- this property is in a hole. We're not proposing that this tower over the neighboring apartment buildings. In fact, it'll only be about -- less than 20 feet higher than what the apartment -- the two-story apartment buildings that are on the -- that are on the west side of this property are. There is a hardship that exists because of the elevation of this property. And to say that a property that is next door and 10 to 12 feet higher, and marketing itself for a hotel, should have any say over what happens on the neighboring property because they don't want a hotel that can compete with whatever they want to sell seems like a stretch. I'm happy to answer any questions.

MS. HAMMEN: Has that gone through any kind of City approval on that? Is that a preliminary plat?

MS. LAMAR: I should have asked. I don't know. Mr. Colbert -- Mr. Colbert can answer that.

MS. HAMMEN: He says no. So that's just -- we don't know, really, what's going to go in there?

MS. LAMAR: We don't know that. But we know what they're wanting.

MS. HAMMEN: We don't know really what's going to go in there. Sorry.

MS. LAMAR: But we do know what they're marketing it for.

MR. NORGARD: Thank you.

MS. LAMAR: Thank you.

MR. NORGARD: All right. Anybody else out there who wants to speak? Okay. I'm going to hand it off to Mr. Zenner to give the staff report.

MR. ZENNER: I've never had such an interesting testimony given at a recent Board hearing. So the facts that have been presented by both sides of the argument, our applicant and their engineer, as well as the adjacent property owner have equal merits from staff's perspective. It is a correct statement that the property in question has not been final platted, and therefore, the lot boundaries of this particular site, while depicted on a preliminary plat, do have the ability to be modified. It would -- that modification, however, would also require an expansion of the zoning classification further to the north. So it is not only simply modifying a preliminary plat, it would be expanding the M-C zoning category.

MS. HAMMEN: Why?

MR. ZENNER: M-N -- M-N does not allow a hotel, and the only district we allow a hotel in is our M-C zoning district. Our M-N zoning district is actually capped at 35 feet maximum height, so to get to the point that I believe, Ms. Hammen, you were asking earlier about what are the impacts of the development moving further north towards Clark Lane, if you were to build at the maximum height and assuming you are 25 or so feet above the base grade elevation of what the finished floor would be of the hotel, it's about 100-- or 806. Add 35 feet to that, you're at 841. So the top of the building that may be at the corner of the proposed street that would serve the hotel site and Clark Lane would be about 841 feet maximum. The adjoining residential development, because it also slopes upward, the lowest elevation adjacent to the subject site is at 837.

MS. HAMMEN: You're talking about The Links?

MR. ZENNER: The Links.

MS. HAMMEN: Okay.

MR. ZENNER: So what you're looking at is you are, I think visually as you look down the proposed street that would be brought in, you're going to be seeing, while the hotel would be the pinnacle point at the end of the cul-de-sac at the requested height, everything else is going to have somewhat of the same elevation at the end of the day if they built to their maximum height. Now, yes, as you get to the southern end of the property in question, the hotel site will be 37 feet taller than the adjoining development, but it also -- and it sits about four feet higher than the adjoining residential ground floor elevation. But I think that the reality, as Mr. Crockett has pointed out, and Ms. LaMar has pointed out, there is this -- the site has this sloping characteristic to it. And if anything, as you noted in the staff report, the only differentiating factor to this site versus any of the other surrounding hotel sites is its grade. They are identical in area. They were constructed, of course, all of our existing hotels were constructed at a different time when we measured height differently. They range -- at least from the hotels that are immediately on the north side of the interstate, they range from a three-story hotel, to a four-story, to the five-story east of the subject property. The Drury Plaza is a seven to eight-story hotel measured from the highest curb elevation along Keene Street, and that is how it got to be that tall, and then we have other developments that are -- or other hotels that are on the north side of Clark Lane, and are part of the Creekwood area, the Creekwood Shopping Center area where Home Depot is located. We did not evaluate those for comparability. We were looking at parcels that were directly on the highway frontage, which is when we are looking at parcels that are of similar characteristics, we look specifically at the highway frontage parcels. So what I will tell you is there is nothing ostensibly different with the subject parcel than its grade. The grade, however, that could be a factor that you want to consider. And as I also pointed out, our Neighborhood Protection Standards, which are a major element of our Unified Development Code, which was adopted in 2017, do not apply with respect to the M -- R-MF property, The Links Apartment Building, because it is zoned R-MF. It's a multi-family project. And therefore, if, as I point out in the staff report, they did apply, you would have ended up with a increased side-yard setback between The Links and the subject property, and you would have then had a -- there would have been a requirement for either a stepdown, if you want to be within the required side-yard setback to get the increased height. As pointed out, the southern portion, the southern portion of this building, the western wing is roughly about 62 or so feet from the property line. The balance of the building, however, that is perpendicular to the interstate is actually well in excess of 120 to 130 feet, as Mr. Crockett pointed out. That excessive setback, given the longer portion of the building that has more facade facing the adjoining development is set the furthest away. The narrowest portion of the building is what is abutting the subject -- is abutting the adjoining residential. The adjoining residential is also roughly 80 feet from its property line. So you've got a -- you do have a substantial separation between the two buildings. Notwithstanding the arguments that have been made tonight that this is a self-imposed hardship, while I can sympathize with the fact that a user backed out that would have been able to have built a site -- built a hotel on this site that would have otherwise complied, does really not factor into the considerations of is a variance appropriate for this property. There are other alternatives. Working with the current hotel chain, Hilton, explaining and trying to reduce the impacts of the usable area that is being allocated towards amenity space, reducing potentially the total number of rooms in this structure to potentially allow for reallocation, or even potentially filling in in the narrower portion, the building portion that is along and parallel with the interstate, is something that potentially could be explored, and putting in an additional corridor, bringing down the height of the building. None of those options were provided as a part of any of the data that was submitted to us to do an evaluation. And with no evidence being submitted that those were even explored, it is very difficult for staff to say that there are not -- those are not realistic or viable options. Furthermore, the possibility of replatting this property or seeking to have the lot lines adjusted, seeking to have the zoning changed, not in a planned district, but to expand the zoning in order to gain additional lot area that would then permit possibly the building to be more laterally expanded north to south hasn't been illustrated as being a plausible option either. And Mr. Crockett has pointed out, due to the topographical, it makes it more difficult to create an ADA building. A building can be stepped, and you create a portion of your building that has ADA accessible rooms, has ability to be able to accommodate that clientele. And then as you maybe have to step down into another section of the building, that is not where you present those types of rooms that need to accommodate that type of individual. We do not have any evidence submitted to us as a part of this case that would even suggest that any of those options have been explored. And until such exploration and full disclosure of why they

can or cannot be achieved or implemented and then achieve compliance, we cannot sit and support a variance as it relates to this site. The site is comparable with size. It is -- we have other hotel sites developed with four-story hotels surrounding this. Yes, we have several that may be five-story, but those are under different circumstances. And while you point out correctly, Ms. Hammen, Board actions such as that taken on Grindstone and U.S. 63 that did approve a height variance do not set precedent. That particular site had other factors associated with it, the grade maybe not as significant, but it had other factors, and we did not again consider that as something that was overwhelming. This particular site does not have some of the same qualities that that interchange location site had. That site was directly at an interchange. We had other avenues available potentially that would have automatically gained an opportunity for a 55 foot height building, but they did not -- they were not able to facilitate to use those. This site isn't the same, and therefore, as we talk about quite frequently, we evaluate sites based on their site specific unique characteristics, and based upon our evaluation of this particular site, aside from the elevation change, we do not see this as being any different. It is unfortunate that the prior occupant or the prior user of this site backed out, but we do not believe we need to basically allow a variance to be granted in this particular location when other viable options have not yet been explored or who has expressed to us as part of an evaluation criteria, and in order to get to a justification for a variance, nor when we have the ability to replat or redesign the potential lot layout within this development since no final plat has been recorded. And even if the final plat had been recorded, a replat of the existing subject site, of the subject site Lot 4, and one of the adjoining lots to the north would still be a very simplistic process. It is the zoning action that may be the more challenging component associated with this because the zoning action of M-C was opposed by the adjoining property owners in The Links when the zoning request came through. At the time of the rezoning, all of the options were described and explored with the applicant, or the applicant's engineer. It was at staff's request and urging that the M-C zoning be moved off of the Clark Avenue -- or the Clark Road corridor. It was inappropriate in staff's perspective to put that intense a building along what was bordered on the northern by residential development. A hotel is an appropriate use along an interstate, and we would never say otherwise. It will derive visibility from that location better than it would have derived visibility from Clark Lane. It is offering an opportunity also in that particular location to act as a buffer -- as a noise buffer between the interstate traffic moving further into the M-N zoned areas, and also providing some relief for the adjoining multi-family development at The Links. So, you know, there were some very, very solid and sound arguments for why M-C needed to be where it is. We did not choose the size of the site. The site was dictated by the fact that a compliant 45-foot from average grade plane was going to be built on the site, and that was based upon what was a bird in hand that flew away. Now we are basically forced to face with the issue is should we accommodate the now bird in hand by granting the relief. And again, I think that there are pros and cons to be weighed in both instances: The building's location on the site, the ability to screen the parking and the other service-related areas will occur, lighting will be addressed, all of those issues will have to comply. So the Board needs to wrestle with the concept or the idea that due to the topographic difference, is that significant enough as the variable that you would like to consider and base a recommendation for granting a relief on, or do you believe that it is more appropriate to hold firm to the requirements of the Code. We'll leave that decision to you. We only provided you the facts of what surrounds this property, and I'm more than happy to answer questions.

MS. HAMMEN: Quick clarification a little off the question. So originally the rezoning and preliminary plat was going to put a hotel up on Clark Lane?

MR. ZENNER: The original concept review, so the concept review prior to the formal rezoning request did have the hotel at Clark.

MS. HAMMEN: And we moved it?

MR. ZENNER: And we moved it. We recommended and strongly recommended that that hotel site be moved to the south.

MS. HAMMEN: Okay. So that's then -- it was done and then those people, whatever, corporation left?

MR. ZENNER: I think what I can explain to you, just based upon the history associated with this project, is I believe it was either Ms. LaMar, or it was Mr. Crockett, it took a while to get this project zoned and platted. Some of that had to deal with a disagreement with the adjoining property owner to the east and a desire to have access provided off of a public street that was being installed in this proposed preliminary plat to their property, and that resulted in roughly a month and a half delay in getting the

zoning approved. So, you know, at this point, the reason a final plat may not have been recorded yet is because there is variability yet as to can we even successfully land the current client with the Hilton brand to build the Homewood Suites, or do we have to do something to modify the plat. So there's -- there's, again, plausible reasons for why certain actions haven't been taken. What I will tell you is there is no way to be able to get a permit to build a hotel on this site without the public infrastructure plans being submitted and infrastructure and platting being completed.

MS. HAMMEN: But that could change from today?

MR. ZENNER: It could change, and that is dependent upon this action, and I think that is the reason we are here tonight to discuss this matter is they are trying to figure out, well, what is their next step forward.

MS. HAMMEN: And did The Links people contact the City again?

MR. ZENNER: No, they did not. And I -- to reiterate in the -- in the property interest list, you will notice that there are a quite substantial number of individual apartment unit addresses listed. The process that the City utilizes when we notify adjoining properties, it is owner, tenant, or occupant. And so every tenant or occupant of those apartments that was within 185 feet were notified, none of which contacted the City as it related to this particular request. And so --

MS. HAMMEN: That's completely rental. None of those are owner occupied; is that correct?

MR. ZENNER: That is correct.

MS. HAMMEN: But the owner of the -- of the development was notified?

MR. ZENNER: That is correct, as well.

MR. NORGARD: To the best of your recollection, what was their objection -- The Links?

MR. ZENNER: Their objection, if my recollection serves me correctly, was the mass of the building, one, with an unknown proximity to the property line, and then the fact that M-C zoning just seemed to be incongruent with what was around them, even though the Schnuck's and the Battle Crossing Shopping Center was already installed. They were concerned about more of the disruption of the quality of life that they presently experience, at least along the -- I would say the eastern boundary. Those apartments that overlook the interstate probably, you know, their quality of life is all in the eye of the beholder maybe. So -- but looking out on a larger structure that may be monolithic was what there was a great concern about. I do know when we presented this to Council, we did do a height exhibit with the rezoning action to illustrate approximately what a 45-foot-tall structure would look like on this property for Council's benefit in relationship to the surrounding development to the west, The Links. And that did not seem to be highly, if I recall correctly, persuasive or informative for Council. You know, really, when we get into stuff like this, it does come down to the point of, well, what's the site plan and what does it look like, and how are we trying to mitigate impacts to the greatest extent possible. This building could have gone in in a lot of different configurations. The applicant has tried to obviously ensure that the balance or the bulk of the building in its greatest impact is furthest from the residential, and that would be the piece that is perpendicular to the interstate with the southerly wing of the building and a third of the property basically being parallel and very narrow. And so from a sight-planning perspective and a staff's view, I mean, that placement actually is -- is appropriate, and the common elements then that are tucked back in the L of the building really are what residents would be looking down into from the adjoining development. So, you know, again, it's something else for the Board to consider is the site design and the placement of a structure, the elevation, the separation between the adjoining property lines, are all those mitigating factors to the fact that very little information was provided to actually justify, other than the fact that we need to create an ADA accessible building with 109 rooms and 127 parking spaces. You know, all of this is driven by the fact that we have user that wants to build this large a building. Well, I think as it was said by Mr. Colbert, aren't those the exact same things that would be applicable to any other site? They are. And I would tell you that, you know, sites like this that have topographic grade on it may be avoided because of that, because they do have other challenges. The other sites that have been developed with the hotels that exist in this area are relatively flat.

MS. HAMMEN: The -- the lot between this site and Schnuck's, part of it's already zoned M-C?

MR. ZENNER: So the lot that Mr. Colbert, the owners that Mr. Colbert represents and the lots that fronts to the interstate immediately east, that was Lot 1 of Logan Acres, it is a platted lot. It is zoned M-C. It has access presently off of St. Charles Road via a private driveway ingress/egress easement that goes past what now, if I'm not incorrect, is the Millard Funeral Home, a two- to three-acre tract of land that is there at the bottom, basically, of that driveway. And so it is presently accessible through a private

agreement. That private road is probably, again, from a planning perspective, an inferior access. The improvements to I-70 and potential adjustments to St. Charles as a result of that may have further impacts to not only the Millard property, but the subject site immediately to the east, as well. And so opportunities or negotiations between adjoining property-owners to gain better access to the surrounding network probably are going to need to be explored at some point when development is imminent for the three acres immediately to the east if it is going to be more intense than, you know, what is there today, low impact office uses, which would be allowed in the M-C zoning district. If you're looking at a hotel, or you're looking at a restaurant, access is going to become probably one of the primary and most prominent needs to be addressed, and how that's addressed at a preliminary construction stage, as was being attempted to be handled as a part of the rezoning action and the preliminary plat approval, or as one goes to make site improvements is going to be left to a negotiation process between the current property owner and the property owner of the property immediately east. And that will not be something that we will entertain or engage in. We will react to requests for how to address that, but we will not be offering solutions.

MS. HAMMEN: So what -- what's allowed in M-N zoning?

MR. ZENNER: So the M-N zoning, as Mr. Crockett pointed out, is our neighborhood commercial. It does not allow high-intensity automobile dependent land uses, such as auto dealerships, gas stations without a conditional use, drive-through restaurants without a conditional use. I mean, there's a lot of additional layered regulatory review in the M-N zone to get to some of the similar uses in M-C. Again, staff's position and perspective when the property was brought in for platting was that the northern portion of this site, the northern six lots, needed to be left in M-N because as it was radiating back out towards Clark and the existing residential development, we felt it inappropriate to be able to be used for M-C uses. It was -- it's off the interchange. It's off the major round-about that's at Lake St. Charles, Lake of the Wood, and Clark, and therefore, it's -- it was what we viewed as a linear commercial expansion, which was something that we typically do not really prefer from a land-use perspective.

MS. HAMMEN: And no residential is allowed in that?

MR. ZENNER: No. M-N allows actually it is one of the few -- the commercial, the M-C district does not allow residential.

MS. HAMMEN: Right.

MR. ZENNER: M-N will.

MS. HAMMEN: Yeah.

MR. ZENNER: And typically what you would see in an M-N zoning district is not necessarily single-family detached, but you would see multi-family.

MS. HAMMEN: Right.

MR. ZENNER: And that multi-family, the way that -- the reason we refer to it as mixed use neighborhood is we view integrating residential development in on second, third, maybe fourth floor in those structures to create a true mixed-use building, but it may be a free-standing multi-family structure that's supported by the other commercial uses that are in that zone. And again, it offers an opportunity to create a transition, M-N does, between adjacent residential. So in the hierarchy of zoning, M-C normally is reserved for our primary road corridors and our interstates, M-N is normally where we get to our collectors and sometimes arterial streets internal to the community, M-OF is where we have -- that's our office zoning district. That's between residential and commercial. It acts as that transition. And then you normally go multi-family, and then typically into residential one or two family.

MR. MINCHEW: Can you just briefly tell us why the height restriction was part of the UDC Code? Was the --

MR. ZENNER: So -- that's a really good question, Mr. Minchew. So the height -- the height requirements within our Code have existed -- you know, we have had height restrictions in our Code since 1935. Height typically -- I mean, we differentiate intensities by height and impacts to adjoining land uses by height and by land uses within a particular zoning category. Typically, if we were to look at our downtown previously to 2017, it was C-2. It actually was a unique animal and didn't really have a height restriction. The height restriction, however, was more imposed by the Tiger Hotel being the tallest structure in downtown, and that other fire code related impedances. But anything went in the C-2 zoning district, everything from commercial to industrial. But when you gravitate outside of the downtown, and a lot of that has to do with the historical development pattern of the City of Columbia, we ended up going out into the outer areas, and then C-3 became something along our major corridors. And when you

interface more intense commercial development against a residential backdrop, you typically are wanting to create height gradients as you're moving away from the core and moving further out into the countryside. And so, typically, that's why we have height constraints. We're trying to manage the impacts -- light, air, a variety of other things. I mean, zoning is really an animal of making sure that we have public sanitation and health issues resolved back in the early days, in the 1920s. And so we have carried forward a lot of the same practices. And so the issue that's come before this Board before is why are our height standards, especially within the M-C zoning district, not more possibly aligned with our building code, and the co-classification that goes with these types of structures, which, as I understand it in talking with our Building and Site Development staff, the particular category of construction that this particular building type would fall within actually fits into a height category of about 60 feet. And so we have considered at multiple points, but never have really acted formally on making amendments to the Code to better align our heights to our building codes to avert this type of issue. So if there was a 60-foot height limit and it may have had other conditions associated with it, based on your adjoining development is, it's possible that this site wouldn't even be here today. Now it may still be here because they're asking for 68 feet, but could they have done something different to drop that eight extra feet? We've compressed a building on -- out by Logboat Brewery -- I can't remember the street now for the life of me. I'm throwing a blank -- Fay.

MS. HAMMEN: Fay.

MR. ZENNER: Fay Street, we could press the building on Fay in order to get it to ensure that it was within a height limitation that was acceptable to the board. We still have to take it through a variance, because the top elevation of the elevator shaft still was projecting above what was allowed. But through architectural design and through mechanical and MEP design, they were able to reduce the spacing between the floors, and they were able to work toward that. Again, that's another thing that has not been really explored here. We don't know, well, what are all the efforts? Have they exceeded and run out every ground ball, and said there is no earthly way we could do this. It's not effect. It's not -- it's just not possible. We don't know. And with that unknown, I can't say in good conscience that there aren't other alternatives.

MR. MINCHEW: But to my question, the reason for the height restriction is -- is a perception. We're not worried that we're going to touch a cloud -- like if we get too high, we're going to touch something, and I don't mean to be --

MR. ZENNER: Yeah. No. The building -- the building code -- yeah. The building code will have done that.

MR. MINCHEW: It is a perception. We don't want to get things that are, you know, 20 stories beside somebody's house. Right? So it's a perception.

MR. ZENNER: Up. If you think about the movie, Up --

MR. MINCHEW: Yeah.

MR. ZENNER: -- that's what we don't want to create.

MR. MINCHEW: Well, I mean, like, I grew up in Houston, and the elevation between, you know, for 100 miles is two feet. You couldn't even roll a bike, you know. You had to pedal the whole time. It was completely flat. You could put a site restriction there. It's a little different in Columbia because we've got 100 foot elevation difference within two blocks; you know what I mean? Not literally, but, I mean, it's that way. So I think we create some of our own problem by putting in a restriction like this and saying absolutely, and then you get a development like this that's, you know, down in a -- in a lower elevation. The perception is not going to be that it's 68 feet, in my -- in the way I'm thinking about it. So, to me, that -- irrespective of whether they've spent 200 hours with engineers and attorneys to approve they can do or can't do, which, you know, I'm not necessarily in favor of, you know, is it within reason that it's going to -- the aesthetic, the appearance of it is going to be similar to what's around it. It's going to be almost the same height as Schnuck's and it's on a freeway. So it's not -- it's not on Broadway out here. It's not right in the middle of, you know, my neighborhood. It's on -- it's on the freeway. So that's just the things that go through my mind is what we're -- what was our intent when we set the rule, what was our intent? What were we trying to do, and that's for the perceived height of things, because things can start lower and, you know, if it's 15 feet in the ground, then you want to raise it 15 feet, the perceived height is exactly the same.

MR. ZENNER: I completely understand your perspective. I think what the neighbors next door to the west will say when they look out their deck at a building that's 37 feet taller than their primary

structure, and that's --

MR. MINCHEW: The people in the apartment?

MR. ZENNER: The apartments. And that, I think, is -- it is -- there is -- now what I will tell you and what the staff report points out, the height of the multi-family development is actually sub-par what it could have been, and if it had been built to its maximum height, we would really only be talking about possibly a ten or so foot difference between the two.

MR. MINCHEW: Have we heard from any of those people that you're proposing might be, because I don't --

MR. ZENNER: No. There -- there were no comments made due to this request, and I think after the fact that the zoning got approved, many felt beat down most likely, which is what is normal. But we didn't have a site plan, and so therefore, the concerns that were being expressed were, in essence, based upon the fact that there was no site plan specific. Given that there were no phone calls in relationship to this particular request, we could have shared the site plan with them, and that may have been enough to have potentially alleviate their concerns because the buildings were going to be separated. And again, that's why I point out in the staff report the separation of the buildings and the bulk of the building is something that is worth consideration if that is the Board's prerogative. Uniformity in our zoning districts and uniformity in the landscape is something that height limitations provide. And so, you know, while, you know, that can sometimes be the hobgoblin of small minds that we don't allow for unique things to be built, that is how we manage the built environment.

MR. MINCHEW: Right. Well, that's why we have the Board of Adjustment.

MR. ZENNER: Exactly.

MR. MINCHEW: Because if you get a situation where you think we need some sort of adjustment to the -- to the standard rule, we have this, and that was part of the UDC to make this group, so --

MR. ZENNER: Correct.

MR. MINCHEW: -- some things need to come -- I mean, some things, it makes sense to me that they come in front of the Board of Adjustment because we have a strange situation here with the elevation difference. So thank you.

MR. ZENNER: You're welcome.

MR. NORGARD: Any questions for Pat? The applicant is allowed to come back up and make a rebuttal argument.

MR. CROCKETT: Tim Crockett, Crockett Engineering, 1000 West Nifong. I'm still sworn in. I don't necessarily -- not rebuttal against what Mr. Zenner is saying, but I see all things different. When this process went through the Planning and Zoning Commission and City Council, I recall one neighbor that showed up, maybe two, but I believe only one showed up that I recall. His opposition wasn't against a hotel. It wasn't against building height. His opposition was because he wanted -- he didn't want the property developed at all. He wanted to -- it was zoned M-N. It was zoned for commercial already, and he didn't want it -- he liked -- he liked the green space back there. I don't want it developed. That's how I recall that going. And, again, how many residents are there? There's multiple buildings, there's a whole bunch of buildings all eight-plex buildings. We had one person show up at Planning and Zoning Commission, and I don't believe any showed up at City Council. Of course, none are here tonight. They've all been notified. The owner of the complex was notified and he didn't respond at any public meeting. So I see that much different with regards to public correspondence and how it took place. If they had concerns of all times, I would think that this would be the time that they want to voice a concern over the building height. The building height, if they had a concern with that, this would be it. They certainly didn't talk about the massing because they didn't see anything. We didn't have a site plan at that time that we shared. With regards to exploring all the options in the construction of this site, have we explored going lower with the floors. Have we explored -- ladies and gentlemen, we can -- we can knock those floors down to seven-foot-tall ceilings and reduce the building height, but does that make sense? Is that marketable? No, of course not, not in today's terms. And so we can -- we can run through scenarios all day long and look at reducing heights and reducing this and reducing that, and at the end of the day, we still may need to build -- come before this Board for a variance. And so looking at all those options, can we break the building and step the building and do all that? That's a possibility. But when we do that, how does that work for accessibility? How does that work for trying to get someone on a half-split level lower floor elevation trying to get someone, you know, okay, these aren't

handicapped accessible units, but most hotels want all of the lower-floor units handicapped accessible. How do you get them on this lower level here? Everyone else is accessible because they have an elevator, but this site doesn't because how do you get down that half -- that half floor if you broke a half level. We can look at those things all day long, but the fact is is we have to use common building practices on how we design these sites, proven facts and proven methods that we've done for decades. And so that's -- you know, do we explore all the options? No. We didn't -- we didn't -- we didn't go through all of those because there's endless options that we can do, and we don't have endless resources and endless funds to look at all of those. Hilton is not going to afford us the opportunity to use their designers to explore every single option out there, and that's the reason why it simply wasn't done. So -- and we wanted to talk about those options, so, you know, that's all I have.

MR. NORGARD: I have a question for you, Tim.

MR. CROCKETT: Yes, sir.

MR. NORGARD: So I heard before that there was maybe a four-story building proposed before they walked out, and now we have a five story. I'm just wondering is it possible to build a four-story hotel in Columbia?

MR. CROCKETT: Is it possible?

MR. NORGARD: Uh-huh.

MR. CROCKETT: Certainly. I mean, I'm not going to deny that. Yes. You can build a four-story hotel. Is it economically feasible, does it get all the amenities that you want and what -- I mean, does it fit on this site? I mean, you know, I think we can do it, you know. I think Mr. Colbert said that. I'm not going to deny the fact that, yes, we can. But, you know, when we want to go a little, you know, more outside amenities and they wanted to go up to account for that with the number of units -- number of beds, I guess.

MS. GAINES: But then where does the hardship come in at? What's the hardship for the current design?

MR. CROCKETT: For the current design? Well, we need to build -- to build the quality of hotel that we're having with all the amenities and all this -- you know, the courtyards and the exterior of the lower level meeting areas and all of that, we need to get the bed count where it needs to be. We need to be at that 100-plus bed count -- 109 bed count. In doing that, the building footprint is a five-story hotel. We simply don't get the numbers -- they don't work at a four-story hotel. And so I know -- understand that's outside of the Board's purview, but that's -- that's reality, that's the issue that we're having.

MS. LAMAR: And this is Phebe LaMar again on behalf of the applicant. The long and the short of it is --

MR. MINCHEW: You have to be up to the mic, Phebe.

MS. LAMAR: I'm sorry. The long and the short of it, with regard to the hardship is, at the elevation of this site, we can't do what we need to do and be able to do it without exceeding the height the way that it's measured now.

MS. GAINES: I guess -- so I'm kind of on the fence because I did want to hear alternatives earlier, and then when Mr. Crockett got back up here, I thought I was going to hear some alternatives that was considered. Is there any alternative that you can go back to the drawing board and complete now?

MS. LAMAR: At the end of the day, the chances that a Hilton is going to agree to step down a ground floor are slim. Is it possible that there might be someone out there who would. I can never say it's impossible. I mean, I'm a lawyer, I don't say things are impossible. But -- but at the end of the day, is it likely? Is there any appreciable chance of it? Probably not. I mean, it -- it sounds great in theory. In practice, it really isn't.

MR. NORGARD: Okay. I'm going to go ahead and close the public hearing.

#### **PUBLIC HEARING CLOSED**

MR. NORGARD: Okay. Let's see. Mr. Craig, do you have any additional commentary?

MR. CRAIG: Yes. Thank you, Mr. Chair. First, I would like to apologize. My allergies have been absolutely insane today, so I have a scratchy voice and a little bit of a nasal drip, so I apologize for my voice. As a first matter, I would like to introduce into the record City's Exhibits 1, 2, and 3, Exhibit 1 being certified copies of Chapter 29, Sections 1.11, Definitions and Rules of Construction, Section 29 -- Chapter 29, Section 4.1, Dimensional Summary Table -- that's Section 4.1 in its entirety, Section 29-6.1(c), Board of Adjustment, 29 -- Chapter 29, Section 6.3, Standard Regulatory Procedures in its entirety, and Section 6.4(d)(2), Variances. Exhibit 2 will be staff report, the variance application and

denial letter, Exhibit 3, will be public hearing advertisement, parties in interest notice, and the parties in interest list.

MR. NORGARD: We shall move those into evidence.

MR. CRAIG: Thank you. Additionally, the matter before the Board this evening is a request for a non-use variance. Our Missouri Courts have spoken on the issue of non-use variance -- variances, and held, "As a general principle, variances should be exercised sparingly, and granted only under exception circumstances". Additionally, the term practical difficulties refers to conditions of the land in question and not conditions personal to the owner of the land. Finally, the courts have allowed applicants to try to establish practical difficulties by showing that non-use variance is needed to prevent great economic hardship and bring the property into compliance; however, economic hardship should not be a determinative factor in finding practical difficulties, but may be a consideration. Finally, I'd like to read into the record the City Ordinance criteria for granting of a variance. Pursuant to Section 29-6.4 (d)(2), this Board may approve an application for a variance if it determines that all of the following criteria have been met, (A) the variance is required to address practical difficulties or unnecessary hardships related to the shape, size, terrain, location, or other factors of the applicant site. Those difficulties or hardships are not generally applicable to the property in the area, and the difficulties or hardships were not created by the actions of the applicant. Secondly, the variance will not have the effect of permitting the use of land that is not indicated as a permitted or conditioned use in Section 29-3.1 Permitted Use Table, in the zoned district where the property is located, nor shall a variance be granted to modify a standard that operates as part of a definition of any use. Third, the variance will not permit a development that is inconsistent with the adopted Comprehensive Plan. Fourth, the variance is the least change from the requirements of this chapter if necessary to relieve a difficulty or a hardship. And finally, the variance will not harm the public site -- public health, safety or welfare, or be injurious to other property or improvements in the area where the property is located. That is all for me. Mr. Chair?

MR. NORGARD: Thank you, Mr. Craig. Okay. Board members, is there any discussion on this matter?

MS. ROGERS: So the first owner of the hotel, what chain was that?

MR. NORGARD: Don't know.

MS. HAMMEN: But that they wanted the hotel in a different place on the lot, I think. No? Oh, they agreed to move it to the back, but they could still put it on a different place on the lot. You know, we see this constant --

MR. MINCHEW: The City had -- had sort of helped them make the decision to move it out closer to the freeway, further south on the property.

MS. HAMMEN: Yeah. But -- but this concept -- land-use concept, right there next to Schnuck's, it's not going to bother anybody, whatever.

MS. ROGERS: I didn't hear a hardship.

MR. MINCHEW: Well, I mean I think I -- I think I hear the hardship in that -- given the way the piece of property lays without having to move a whole bunch of earth to get -- to make the piece of property flat enough to sprawl out on. I mean, that's -- so cost is a -- is a thing, and if you spend that much money, now you might need to do 120 rooms because, you know, the development is -- you've got to make your money back on a development. And it's the same -- sort of the same thing we heard when we talked about the Grindstone and Highway 63 when they wanted to do a taller building there. It was the same thing -- the economy, you know, to make a hotel work. So which gets back to my point about the hardship is because of the way the piece of property lays.

MR. NORGARD: My recollection about the Grindstone was that they were literally sitting in a hole. They needed the extra height so they could clear the highway entrance ramps so that people could see them from the highway at all.

MR. MINCHEW: That property is not that --

MR. NORGARD: I think that argument is being made here.

MR. MINCHEW: That property is not that deep. I drive by it every day, so --

MR. NORGARD: That was their argument.

MR. MINCHEW: Well, so that you could see more of them, not that you could not see them at all with the --

MR. NORGARD: Their claim was that you couldn't see them if you were southbound on 63.

MR. MINCHEW: Well, and that might be, because they were going under the underpass, yeah.

MR. NORGARD: Yeah. Anyway, that's not the situation here, so that's one distinction.

MR. MINCHEW: So the other -- the other -- yeah. The other comment I had is, it's a freeway lot. It's a lot on the freeway. And so, you know, it's a great place to put a hotel. Right? So it's not -- it wouldn't be that good for a daycare, it wouldn't be that good for a -- necessarily for a restaurant. I mean, it's a great place for a hotel, and so, to me, given the fact that the City helped them move the development to the south end of it and put it down into that lower part, and now they want to do -- given that's where the City would like for them to put that on that particular development, then that's what they've come up with. And so, in my mind, to say, well, you haven't explored every single option, I mean --

MS. GAINES: Not even one option.

MR. MINCHEW: Well, we don't know -- we don't know what options they explored. They didn't explore every option, but we don't know what options they did explore before they came up with this plan. So -- and the other part of it is that, in my mind, and my -- that was my question to Mr. Zenner, is that the height restriction is for perception. And if that building is not perceived to be any taller because of how far down it is in the hole, then, you know --

MS. GAINES: What option did you hear that they explored?

MR. MINCHEW: No. I didn't hear any options, but we don't know what options they explored before they came up with this plan.

MR. NORGARD: Everybody speak into the mics.

MR. MINCHEW: So, yeah. I didn't hear them talk about multiple options, but we don't know what options they came up with, you know, what -- what the iterations were before they brought the development to the way it is now. The -- the -- for people who are not writing the checks for the engineers and the attorneys to say, well, you didn't come up with enough options. Well, I mean, we could just spend your money all day long; right -- trying to get you to come up with something we agree with, and I just don't think that's -- that's not economically feasible. So they've come up with a plan. It requires that we give them a variance on the -- on the height. Everything else, to me, seems like it sidetracks us off of what the request is. Because of this particular piece of land, they're asking for a height variance. And everything else, to me, just takes you off topic of what it is they're asking us for. And so could -- could they -- could they come up with 20 different iterations on this same thing? I'm sure they could. If it were me and I've -- you know, I've been in the position to -- for someone to say, well, go back to the drawing board and keep coming up with ideas until you get back -- till you get something we can agree with, I mean, that's just not economically feasible. So --

MS. GAINES: Yeah. I was just looking for one alternative, just to have a comparison for the element of minimum necessary to afford relief. That -- yeah.

MR. MINCHEW: Yeah.

MS. GAINES: So that's where I'm hung up at.

MR. MINCHEW: And my problem is is if even if you told me, I'm not an expert in hotel design or how to best use a piece of land, so I couldn't tell you. If you told me three options, I couldn't say, well, that's the one right there, you need to use number two, because I don't know, you know. I mean, if it's just the fact that they didn't exhaust more resources before asking us, then that part, I don't disagree with them on, because why would you -- why would you exhaust the resources, you know, just to give yourself a better opportunity to get a variance?

MS. GAINES: Absolutely. Yeah.

MR. MINCHEW: We're talking -- we're talking potentially \$100, \$150, \$200 thousand dollars when you start doing that, so --

MS. GAINES: In Hilton.

MR. ZENNER: That's speculation.

MR. MINCHEW: Huh?

MS. GAINES: I said in Hilton being the client.

MR. MINCHEW: Well, I mean, I don't care who it is.

MS. GAINES: Not to say that -- yeah. Not to say that, you know, exhaustion of resources.

MR. MINCHEW: I disagree with that 100 percent. We don't --

MS. GAINES: But at least one alternative for us to consider for at least this particular element --

MR. MINCHEW: But the way you've come to this Board with a variance, you do not come in with three options asking for two different variances. You've come in with a plan, asking for a variance.

There is no option. There is no -- I'm not seeing anyone come in and say we've got four ideas, we just need a variance on one of the four, because there is no way to apply for that.

MS. GAINES: How does one determine that this is the -- the degree of variance is the minimum necessary to afford relief if there's no other alternative --

MR. MINCHEW: I'm not -- that's different than the question you asked --

MS. GAINES: No. That's --

MR. MINCHEW: -- and that's -- why didn't they bring multiple -- multiple variations of this, and ask for different variances, because they're going to bring one plan in -- right --

MS. GAINES: Uh-huh.

MR. MINCHEW: -- and ask for a variance. They can't bring three plans in and ask for three variances.

MS. GAINES: I was just asking for one alternative, even if it had been spoken orally here, just one alternative that I can say, hey, this is possible, you know. Yeah.

MR. MINCHEW: Yeah. I'm just not qualified. If they -- if they orally gave me a variation of it, I'm not qualified -- I'm not qualified to go, that will work better. Right?

MS. GAINES: Yeah. No, I get it.

MR. MINCHEW: So brick instead of siding, three feet here, four feet there, you nailed it, I'll give you your variance. I don't -- I don't know.

MS. GAINES: Yeah. Yeah.

MR. MINCHEW: So even if they did it, I wouldn't know how to judge that, other than, hey, you know what, you gave us the good old college boy try, and spent an extra \$100,000 coming up with these variances on this. And I just personally don't think that's a requirement. So --

MS. HAMMEN: We didn't talk about the parapet, but --

MR. MINCHEW: That seems to be the least of their problem.

MS. HAMMEN: I would agree.

MR. NORGARD: Is there any further discussion? All right. I see none. Is there a motion -- oh, wait.

MS. HAMMEN: I move that we --

MR. NORGARD: Wait. Wait. Wait.

MS. HAMMEN: I'm sorry.

MR. NORGARD: Okay. Will Pat please make a motion -- two motions, one for the parapet and one for the height request?

MR. ZENNER: I will --

MR. NORGARD: Is that how we're doing it.

MR. ZENNER: Yeah. I'm -- well, it would be better if you all did, but I'll be more than happy to take care of it.

MR. CRAIG: No. I think it's got to come from the Board.

MR. NORGARD: Okay. So is there a motion to approve the variance?

MS. HAMMEN: As written in the Case 110-2026, can we put it that way?

MR. NORGARD: But is it two separate variances, or is it one variance?

MS. HAMMEN: Let's put it as one, unless we're told we can't.

MR. ZENNER: It should be two. There's two separate sections in the municipal code that we're needing relief from.

MR. CRAIG: Yes. It needs to be two.

MR. NORGARD: Okay. So let's make a motion from the official -- let's make a motion. Is there a motion to approve a variance to permit a building height to exceed 16 feet of the M-C zoning district 45-foot standard? Is that approximately correct, Pat?

MR. ZENNER: Yes. I can clean that up.

MR. NORGARD: Backwards language.

MS. HAMMEN: A 17-foot --

MR. ZENNER: Sixteen.

MR. NORGARD: I have 16 foot here in the --

MS. HAMMEN: Oh, to in -- exceed by 16 feet.

MR. ZENNER: Is there a second on that motion?

MS. HAMMEN: Yes. Hammen.

MR. NORGARD: Who was the first?  
MR. CRAIG: There wasn't -- yeah.  
MS. HAMMEN: You made it.  
MR. ZENNER: Were you making the motion?  
MR. NORGARD: No. I made the motion. Is there a first and a second? So Hammen firsted it, do we have a second?  
MS. ROGERS: Second.  
MS. HAMMEN: But it's a 17-foot variance.  
MR. NORGARD: That's the one for parapet.  
MR. ZENNER: The one for -- yeah. So it was Ms. Hammen made -- Ms. Hammen moved --  
MR. NORGARD: Okay. Who is moving what?  
MR. ZENNER: Ms. Rogers seconded. Okay. That's exactly -- and it's getting late. It's not even been a long meeting yet. Okay. So we have a -- we have a motion that has been made and seconded in relationship to Case Number 110-2026. This motion has been made in the affirmative. A vote for yes is to approve, a vote for no is to deny, as it relates to property addressed as 5320 Clark Lane, and the variance is to approve a 16-foot height variance in the permissible height as defined in Section 29-4.1, Table 4.1-2, which would allow for a 61-foot-tall hotel to be constructed on the subject property. Mr. Norgard?  
MR. NORGARD: No.  
MR. ZENNER: Ms. Hammen?  
MS. HAMMEN: No.  
MR. ZENNER: Mr. Minchew?  
MR. MINCHEW: Yes.  
MR. ZENNER: Ms. Rogers?  
MS. ROGERS: No.  
MR. ZENNER: And Ms. Gaines?  
MS. GAINES: No.  
MR. ZENNER: The motion fails with a vote of four to one.  
MR. NORGARD: Is there a motion -- do we need to approve the second -- I guess we'll go ahead. Is there a motion to approve a variance to permit a parapet to exceed its permitted height by one foot?  
MR. MINCHEW: So moved.  
MR. NORGARD: Second?  
MS. ROGERS: Second.  
MR. ZENNER: The motion has been made and seconded as it relates to Case Number 110-2026, a variance in the permissible parapet height for a proposed hotel located at 5320 Clark Lane, such that the permitted parapet height on the proposed hotel would be permitted to exceed the maximum allowed height by one -- parapet height by one foot which is inconsistent with Section 29-4.1(c), Table 4.1-4. Mr. Norgard?  
MR. NORGARD: No.  
MR. ZENNER: Ms. Hammen?  
MS. HAMMEN: No.  
MR. ZENNER: Mr. Minchew?  
MR. MINCHEW: Yes.  
MR. ZENNER: Ms. Rogers?  
MS. ROGERS: No.  
MR. ZENNER: And Ms. Gaines?  
MS. GAINES: No.  
MR. ZENNER: That motion fails, as well.  
MR. NORGARD: All right.  
MS. HAMMEN: Thank you.  
MR. MINCHEW: Thank you all.

## **VI. GENERAL COMMENTS BY PUBLIC, MEMBERS AND STAFF**

MR. NORGDARD: Is there anybody from the public who would like to speak? Now is an opportunity. Are there any other items that the Board needs to discuss, or staff wishes to discuss?

## **VII. NEXT MEETING DATE**

MR. ZENNER: Your next meeting is tentatively scheduled for June 9th, and we will determine if we have applications on that here in the month of May. There are no other items, other than the fact that we would like to congratulate Ms. Hammen for her years of service with the Board. Tonight was her last meeting. I have known Janet for many, many years. We have sparred at this dais before over many a -- many a case. It has been -- she has been a formidable, at times, advocate for compliance with our Code, has taught me some patience, as much as it may not always seem that way, and to be reflective, of course, on sometimes how I react to particular situations. I wish you the best of luck as you move on to the next endeavors that you want to take on as a citizen of this wonderful community, and I appreciate your service and dedication to trying to fulfill the obligations of your office.

MS. HAMMEN: Thank you. I'd like to say I have thoroughly enjoyed the 13 years I have been on the Board. I was appointed for a three-year unfulfilled term, and then had two five-year terms. And it seems to me the Board has made great strides -- you're going to hear my -- my opinions of things from rubber-stamping everything that came through to now thoughtfully evaluating the criteria that we are required by law to evaluate. And I just wanted to say that it -- we no longer approve, as a former Board member told me once early on, variance of convenience for an applicant, and I'm really proud of that. I -- I just think that's some big steps that this Board has taken through the years. So thank you to all my Board members and staff, and I really appreciate being here. So -- thank you, a lot.

MR. NORGDARD: All right.

## **VIII. ADJOURNMENT**

MR. NORGDARD: Is there a motion to adjourn the meeting?

MR. MINCHEW: Motion to adjourn.

MR. NORGDARD: School is out.

MR. CRAIG: We need a second on that before we --

MS. GAINES: I second.

MR. NORGDARD: We got a second.

MR. CRAIG: Oh, I didn't hear that at all.

MR. NORGDARD: Yeah.

MR. MINCHEW: I gave the first.

MR. NORGDARD: We had a second right here.

MS. GAINES: I seconded.

MR. CRAIG: Oh, you did. Okay. I did not hear that at all.

(The meeting adjourned at 8:38 p.m.)

(Off the record)