

EXCERPTS
PLANNING AND ZONING COMMISSION MEETING
COLUMBIA CITY HALL COUNCIL CHAMBER
701 EAST BROADWAY, COLUMBIA, MO
August 19, 2021

Case Number 227-2021

A request by Crockett Engineering (agent) on behalf of MFL, Golf, LLC (owner), for assignment of approximately six acres of M-N (Mixed-Use Neighborhood) and 115 acres of O (Open Space) zoning as permanent zoning upon annexation. A concurrent request (Case Number 253-2021) seeking approval of a conditional use permit (CUP) to allow "outdoor recreation or entertainment" on the approximately 115 acres seeking permanent O district zoning has also been submitted. The site is presently improved with Midway Golf and Games, which has existing outdoor entertainment uses. The property is located approximately 1,800 feet to the east of the intersection of Highway UU and Van Horn Tavern Road and is addressed as 5500 W. Van Horn Tavern Road.

AND

Case Number 253-2021

A request by Crockett Engineering (agent), on behalf of MFL Golf, LLC (owner), for a conditional use permit (CUP) to allow "outdoor recreation or entertainment" uses on approximately 115 acres of land presently improved with similar uses and operated as Midway Golf and Games. The subject acreage is part of a larger 121-acre property owned by the applicant seeking to be permanently zoned O (Open Space) and M-N (Mixed-Use Neighborhood) upon annexation as presented in Case Number 227-2021. The subject property is located approximately 1,800 feet to the east of the intersection of Highway UU and Van Horn Tavern Road and addressed 5500 W. Van Horn Tavern Road.

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

Staff report was given by Ms. Rachel Smith of the Planning and Development Department. Staff recommends approval of requested O and M-N zoning as permanent City zoning, upon annexation, and approval of the CUP for "outdoor recreation and entertainment" uses as requested on the approximately 115 acres requested to be zoned O subject to three conditions:

1. Addition of any outdoor recreation or entertainment activity not presently on the property or that will result in an expansion of an existing activity by more than 20 percent (size/scale) shall require

amendment to the CUP, including the submission and approval of an updated site plan;

2. A transportation impact analysis (TIA) shall be submitted at the time of subdivision plat submission provided the existing development will produce 100 or more trips in and out of the development site at peak hour; and

3. A transportation impact analysis (TIA) shall accompany any CUP amendment triggered by either (a) the expansion, in scale or size, of an existing outdoor recreation use or activity shown within the attached "Conditional Use Exhibit" by 20 percent or more; or (b) new uses or activities are proposed on-site for which either the existing use or activity, new use or activity, or any combination thereof shall produce 100 or more trips in and out of the development site at the peak hour.

MS. LOE: Thank you, Planner Smith. Before we move on to questions for staff, I'd like to ask any Commissioner who has had any ex parte related to this case to please disclose that now so all Commissioners have the benefit of the same information on the case in front of us. Seeing none. Any questions for staff? Commissioner Placier?

MS. PLACIER: Yes. A couple of -- first, a minor point. Is the laser tag, have you -- you have the other activities mapped. Do you know where it's located on the map?

MS. SMITH: It's in between the yard games --

MS. PLACIER: Okay.

MS. SMITH: -- and the -- kind of over in here. I've been out -- I've been out there, but not super recently.

MS. PLACIER: Oh, that's okay.

MS. SMITH: It's in this area. But the map would be --

MS. PLACIER: That's okay. It's -- it's the general --

MS. SMITH: Yeah.

MS. PLACIER: -- because my major concern was with that -- the eastern part of this --

MS. SMITH: Yeah.

MS. PLACIER: -- along the creek protecting that area, and I don't know if this is the time to create another condition related to that and related to the park because --

MS. SMITH: So one thing I do want to get ahead of, because I know where you're going.

MS. PLACIER: Okay. Am I getting too far --

MS. SMITH: And I like it. No. I like it.

MS. PLACIER: Okay.

MS. SMITH: So -- so that subdivision plat is going to have a stream buffer of Perche, and it's the highest one we have. Is it 100 or 150?

MR. ZENNER: Hundred from the -- I think it's --

MS. SMITH: Front the bank.

MR. ZENNER: From the bank.

MS. SMITH: Yeah. So the -- so by -- we've got lots of things going on. It's -- it's a little intensive

to prepare a subdivision plat for this large of acreage. They haven't done it yet. Right? Maybe they want to see how -- how Council, the wind blows. Right? There will be a stream buffer along the eastern portion. Also, they will have to show all of their preservation areas for trees, and guess where -- guess where their tree preservation area is going to go? So I don't know the exact -- I can't tell you exactly where that's going to be. If you feel comfortable coming up with some sort of measurement, you absolutely could condition that. I don't have any recommendation because I'm not sure exactly where all of these environmental features are going to shake out, but I -- I do know that the far eastern portion of the property is not right for development.

MS. PLACIER: Well, as long as they understand that. I was just thinking --

MS. SMITH: Yeah.

MS. PLACIER: -- maybe the laser taggers were running around in there, and --

MS. SMITH: A hundred -- a hundred and twenty-one acres is a lot. It's hard -- right?

MS. PLACIER: So as long as they understand that down the road there's going to be a big wide buffer, that's fine with me.

MS. SMITH: Well, and also, too, it's going to be tied to the existing laser tag footprint, and no more than 20 percent, the way we have it signed, so yeah. They're not -- yeah. Okay.

MS. LOE: Commissioner MacMann?

MR. MACMANN: Thank you, Madam Chair. Thank you very much, Planner Smith, for the details that you went in out there. And just so you guys know, I -- long ago and far away, when this thing was built, I spent a lot of time out there. I have a couple of questions, and the first one is, could you point me to where this 16-inch trunk line is? I'm on the aerial right now.

MS. SMITH: Oh. I -- I don't know.

MR. MACMANN: Is it on the east or west side of Perche Creek?

MS. SMITH: It's on the east side.

MR. ZENNER: They'd have to bore.

MS. SMITH: Yeah.

MR. MACMANN: They would have to bore? Okay.

MR. ZENNER: Yeah.

MR. MACMANN: The second thing is, just for everyone's information, in '93 and '95, the south half of this was a lake, but those were exceptional times, but they were a lake. I don't conceptually have a problem with this. I appreciate the work that you've done and the agreements that you guys came to make this a usable property. My two concerns are as follows -- three concerns, really, but I'll voice those later. You've answered my questions. Thank you very much.

MS. LOE: Commissioner Geuea Jones?

MS. GEUEA JONES: Do you know where the F -- is it FPO? Where is the floodplain cutoff; do you have any idea?

MS. SMITH: It's a lot of the property.

MS. GEUEA JONES: I was going to say, I imagine it's, like, basically, everywhere?

MR. STANTON: Yeah. It's --

MR. ZENNER: You'll have -- you'll have portions of the frontage along I-70 Drive most likely captured within it, as well --

MS. GEUEA JONES: Oh, really?

MR. ZENNER: -- as a majority of what is shown in the heavier tree cover --

MS. GEUEA JONES: Okay.

MR. ZENNER: -- along the eastern boundary of the property.

MS. GEUEA JONES: Okay. And that basically means no permanent --

MS. SMITH: Well, it means they're -- it makes it harder and more expensive. Right? So there's some uses -- so, like, corn maze is a good use. Right?

MS. GEUEA JONES: That's fine.

MS. SMITH: Building get tough. You have to get a certificate of no rise. You have to get a floodplain development permit.

MR. ZENNER: Development permit.

MS. SMITH: Right. So you can mitigate, but it gets harder and more expensive and more limited.

MR. ZENNER: Two classes --

MS. GEUEA JONES: Potentially, anything that requires digging.

MR. ZENNER: Two classes within the floodplain overlay or with the floodplain regulations. We have the flood fringe, which is the area within the 100-year floodplain, and then you have the floodway, which you can't build in, period.

MS. PLACIER: Right.

MR. ZENNER: So a portion of what may be along the eastern property boundary may be partially floodway, is what I would assume, that's part of the FPO, and then going out from that is going to be flood fringe or the floodplain.

MS. SMITH: Yeah. It is a little challenging. It's an automatic designation. It does not get mapped until annexation happens, so we get -- we do get a little chicken/egg sometimes. I just looked at the FEMA maps, and I was, like, yeah, okay.

MS. GEUEA JONES: Yeah. I think you've answered my -- what I thought was the case, which is 60 percent of this property is going to have flood restrictions or more. Okay. Thank you.

MS. LOE: Any additional questions for staff? Seeing none, we'll open up the floor to public comment.

PUBLIC HEARING OPENED.

MR. CROCKETT: Madam Chair, members of the Commission, Tim Crockett, Crockett Engineering, 1000 West Nifong. I'm here tonight with the -- with the operator of Midway Golf and Times, Tim Rost, and he can answer any operational questions about the facility, if you have any. I would like to

start off by stating this is an -- you know, as you stated, this is an existing facility. The operation today, it's -- we're not coming in asking for this zoning. It has like zoning in the county, which is REC, which is recreation. I would like to start off by a couple of questions regarding the -- Mr. MacMann, with regard to the floodplain. Yes. Most of -- much of this is in the floodplain, but every -- all of the development has been -- has been in accordance with the FEMA regulations with regards to, you know, elevation certificates, rising above the buildings, above the base flood elevation, and all of that. So we're in full conformance with FEMA and how they want to regulate this area. Ma. Placier, with regards to the laser tag, laser tag, I would say it's in the north -- northeast corner. I'd say the site for that is less than an acre in size, an acre or thereabouts, I would guess. So it's not that we have -- you know, have kids running over the entire 115 acres, running across the creek into the park. It's just in a very concise little area there, so it's -- it's, you know, pretty -- pretty isolated. Again, this site is located within the urban service area. I think Ms. Smith talked about that. She did a good job on the staff report, and it conforms with the future land use map. And she has indicated that we did work with her and City staff to curtail this zoning classification to the specific need. We did come in with M-C because that's what would be allowed for us to be able to put our new development or our new -- our new project out there. However, we concur and we agree that this much M-C, while we stated it's in the floodplain, is not really developable to that -- to that high intensity. We agree that M-C is probably not appropriate; and therefore, we curtailed this zoning to a small piece of M-N with the rest of it being in the O district with the accompanying CUP. So we're -- we're in full conformance with that. We're compliant, you know, happy to do that. No problem with that. We've worked with -- with Ms. Smith on that without any issue. It also comes to you, the CUP comes to you with some conditions attached to it with regards to expansion, with regards to traffic study and all of that. No problem. We have no concern, no issues with that. We're happy to comply with those conditions. There's no issues or, you know, if there maybe is a traffic issue, we want to make -- we want to know that and make sure that we can address it. So, again, I mean, I think that she did a pretty good job on the staff report. She did mention that there is a civil issue or a civil dispute with regards to an easement, you know. There is an easement on the property. We're not going to block or restrain or keep -- keep any access, you know, restricted from that. It's out there today, it runs through the parking lot. We continue to expand, you know, let it stay there, let it -- you know, they still have all the rights that they have, you know, tomorrow, as they do today, and so we don't have any issue with that. So with that, I'm happy to answer any questions that you may have. Mr. Rost is here to answer any operational questions that you may have.

MS. LOE: Thank you, Mr. Crockett. Any questions for Mr. Crockett? Mr. MacMann?

MR. MACMANN: I'm just going to second something Mr. Crockett said. As I -- as I told you, I was there during this mega-flood event in '95, and the area that is essentially M-N, it's kind of hard to see on this map, but that's always well above where the flooding was. That might have been one of the few places out there.

MR. CROCKETT: It is. It's one of the few places, and that's the reason why we're looking for

that location to be a development, but the rest of it is in the floodplain, so when we are looking at 115 acres, please know that we understand it's in the floodplain, and we're not asking for full development of the entire piece. There are some appropriate uses in the -- in the floodplain overlay district, and we certainly believe this is one of them.

MR. MACMANN: That's all I had, Madam Chair. Thank you very much.

MR. CROCKETT: Thank you.

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

MR. BRANSON: Good evening. Curt Branson, 11 North 7th Street here for the Fritz Family Gift Trust. That's the packet you kind of received the letter we sent over there. Our concern really is the access. The dispute is the -- what is this 30-foot strip that, since we claim is in ownership fee simple ours rather than simply an easement that allows access to -- to the land. I don't believe my client has any issue with the way this would be zoned. It's a question of what -- what land is actually being zoned. If it's a 30-foot fee simple interest that we own, the zoning goes over that and covers that and cuts us off. I think -- so I don't think they believe they're going to cut us out. I don't think that's the intention, but, again, it's kind of a dispute that's been going back for some years on is it owned outright or is it in an easement. And I believe staff said that may be needed to decide in the final plat or taken up to the legal department, but --

MS. SMITH: Yeah. We're asking the legal department and the survey department to look at it, so we typically don't get involved with civil issues, but when it comes to a plat action, all recorded easements have to be shown on them. So is there any indication on the time line of when the civil dispute might be resolved?

MR. BRANSON: Well, I got into this recently. It was by Tom Schneider in our office, and he's retired recently, and so it came to me. So I'll be talking with, you know, their representative. I know they have an attorney. We can talk with them afterwards, but that is really our concern is that the access to and from the parcel that we've been using for all these years is not interrupted. Again, not -- not a problem with how this land would be used, but that what land is actually being rezoned or changed.

MS. LOE: I -- no. I understand. I'm not sure that's anything we can resolve in this -- in this --

MR. BRANSON: No. I understand.

MS. LOE: No. And I think it's duly noted, and staff are addressing it, so I don't think we're going to sign off on anything before it's addressed. Commissioner Geuea Jones?

MS. GEUEA JONES: Well, that was going to be my question. Your real concern is when we replat and annex this, you want to make sure that the plat is done correctly?

MR. BRANSON: Sure. That's correct. Yes.

MS. GEUEA JONES: So you don't have a problem with the zoning and CUP that we're working on tonight? That wouldn't affect your option?

MR. BRANSON: We do not, no. It was really just to get in here, and we had that issue brought out so it's -- everyone is in the open, and we all know what's going on.

MS. GEUEA JONES: Yeah. I appreciate that. I just wanted to be clear that this will become more of an issue when we see the platting.

MR. BRANSON: Down the road, yes.

MS. GEUEA JONES: Yeah.

MS. LOE: Any more questions? Mr. MacMann?

MR. MACMANN: I just have a comment on -- we had another issue that was going to court and was very contentious, very unlike this one, and I was very opposed to that because it was very much tied in court. The property over off London Drive. I don't see that as the case, for those of you who were here. I don't see this as the case here. These folks seem to be working it out, and we're not going to be deciding annexation, and I would imagine the court will rectify it if there is a serious problem. I just wanted to comment on that that I'll be going in a different direction as opposed to that property -- previous property.

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

MR. BRANSON: Thank you, all.

MS. LOE: Any additional comments on this case? Seeing none. We'll close public comment.

PUBLIC HEARING CLOSED

MS. LOE: Commission comment? Commissioner MacMann?

MR. MACMANN: Okay. If no one else has --

MS. LOE: Is that sigh of acquiescence?

MR. MACMANN: It is a sigh of -- if no one else has any questions or concern -- concerns, I will go ahead and make a motion. Would you give --

MS. LOE: The next slide.

MS. SMITH: Law is proposing a simplification of three.

MR. MACMANN: Thank you.

MS. SMITH: There's some redundancy in there.

MR. MACMANN: I'm going to one -- we're going to go back and forth; how about that?

MS. SMITH: Okay.

MR. MACMANN: All right.

MR. ZENNER: Do you want to approve the conditions first; is that what you're going --

MR. MACMANN: Well, I thought she wanted the --

MS. SMITH: I'm going to -- I want 227, because you can't --

MR. MACMANN: You want -- you want the zoning first?

MS. SMITH: I do, because --

MS. RUSHING: Zoning first.

MS. SMITH: -- you can't apply the CUP without the O.

MR. MACMANN: Understood.

MS. SMITH: Yeah.

MR. MACMANN: Brilliant legal point. I'll be recommending you to -- never mind. In the matter of Case 227-21 of 5500 West Van Horn Tavern permanent zoning, to O and M-N, I move to approve.

MS. RUSHING: Second.

MS. LOE: Second by Commissioner Rushing. We have a motion on the floor. Any discussion on this motion?

MR. MACMANN: I have to amend what I said.

MS. RUSHING: No. That's next, isn't it?

MR. MACMANN: Upon annexation. I did not say that.

MS. LOE: I -- yeah.

MR. MACMANN: I have to say that. Is that still okay with you, Commissioner Rushing?

MS. RUSHING: So what did we --

MS. LOE: You seconded --

MR. MACMANN: Upon -- upon -- I added upon annexation. Is that all right with you?

MS. RUSHING: Added what?

MR. MACMANN: Upon annexation.

MS. LOE: Upon annexation.

MS. RUSHING: Oh, annexation. Got it.

MS. LOE: She approves the amended. All right. We have a motion on the floor. Any discussion on the motion -- amended motion? Seeing none. Commissioner Burns.

MS. BURNS: Yes.

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

MS. BURNS: Eight to zero, motion carries.

MS. LOE: Thank you.

MR. MACMANN: Okay. I am going to be reading for a moment. If I skip something --

MS. RUSHING: Wait. Can we delay your --

MS. LOE: We forgot the laser tagging.

MR. ZENNER: Well, that's -- that's your vote now, so that's the first part of

MS. LOE: That's the -- okay. Okay.

MR. ZENNER: -- so that's the first part of a motion on 253-2021 is to allow for the CUP exhibit to be amended to include laser tag.

MR. MACMANN: A pre --

MS. LOE: A pre-amendment.

MR. MACMANN: A preceding amendment?

MR. ZENNER: Yes. A preceding amendment.

MR. MACMANN: And preceding amendment? That's okay, legal? We're okay with that?

MS. LOE: We have to.

MR. MACMANN: All right. That's fine. I just wanted to make sure we're in the right order. I have a motion.

MR. ZENNER: Would you like me to resummarize that for you, sir?

MR. MACMANN: No, I would not, Mr. Zenner. Thank you very much. In the matter of the case 253-21 [sic], I move to amend the conditional use amendment to include laser tag as an existing activity as requested.

MS. BURNS: Second.

MR. MACMANN: Which -- yeah.

MS. LOE: Seconded by Commissioner Burns. So get -- right. Clarifying, we're amending the conditional use exhibit.

MS. SMITH: Yeah. The exhibits. Yes.

MS. GEUEA JONES: That must be done before going to Council.

MS. LOE: All right. We have a motion on the floor. Any discussion on this motion?

Ms. Burns.

MS. BURNS: Yes.

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

MS. BURNS: Eight to zero, motion carries.

MS. LOE: Thank you. Do we have to read all of the --

MR. MACMANN: I'll read them.

MS. LOE: No.

MR. MACMANN: No?

MS. LOE: Can we get by with just saying the three --

MS. SMITH: As presented. Would you like to know Laws simplification of three?

MS. LOE: Oh, sure.

MS. SMITH: May I offer? So as Ms. Thompson pointed out that we define an amendment to the CUP up here, so we don't need to further define it down here. So the language could be simplified. Sorry, Pat, this is going to mess up your screen show. That TIA shall accompany any CUP amendment because the trigger is already defined in one, which shall produce --

MR. MACMANN: I think reading them is easier, but whatever we're doing, I guess --

MS. SMITH: Ms. Thompson, is that --

MS. THOMPSON: I was going to say a transportation impact analysis shall accompany any CUP amendment when either the existing use or activity, new use or activity, or any combination thereof will produce 100 or more trips in and out of the development site at the peak hour. I think you crossed off too much, yeah.

MS. LOE: She's got it.

MS. SMITH: Does that work?

MS. THOMPSON: That works.

MS. SMITH: Okay.

MR. ZENNER: And if you would like to just make a motion that suggests that you adopt the three CUP conditions as presented within the staff report, we will take care of that.

MR. MACMANN: If that's fine with legal, it's fine with me. Are we ready?

MS. RUSHING: Uh-huh.

MR. MACMANN: In the matter of case 253-2021, approval of the CUP for outdoor recreational entertainment uses as requested on the approximately 115 acres requested to be zoned O, subject to the three conditions as listed in the staff report.

MR. ZENNER: As amended.

MS. RUSHING: Second.

MR. MACMANN: As amended and listed in the staff report.

MS. RUSHING: Second.

MS. LOE: Seconded by Commissioner Rushing. We have a motion on the floor. Any discussion? Comrade Burns.

MS. BURNS: Yes.

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

MS. BURNS: Eight to zero, motion carries.

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