

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

JANUARY 18, 2018

Case No. 18-14

A request by A Civil Group (agent), on behalf of Paris Road Plaza, LLC (owners), to rezone two properties containing a total of 6.3 acres from PD (Planned District) to IG (Industrial District). The subject parcels are located on the east side of Paris Road, approximately 1,200 feet north of Brown Station Road, to the north and south of the Orscheln's Farm and Home, addressed as 3300 Paris Road. (This item was tabled at the December 21, 2017 meeting.)

MR. STRODTMAN: May we have a staff report, please?

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

MR. STRODTMAN: Thank you, Mr. Palmer. Commissioners, questions for staff?

Mr. MacMann?

MR. MACMANN: Thank you, Mr. Chairman. Mr. Palmer, there was a public information meeting on this, yes?

MR. PALMER: Yes.

MR. MACMANN: And did the neighbors show up and express concerns or make statements?

MR. PALMER: Yes, they did.

MR. MACMANN: And could you summarize some of those or all of those -- or characterize; how about that?

MR. PALMER: General concerns about industrial uses adjacent to residential, being sight, sound, noxious fumes, whatever it may be.

MR. MACMANN: Was that well attended?

MR. PALMER: It was a --

MR. MACMANN: I understand that's a relative statement.

MR. PALMER: Yes. It was two folks, and I believe they're here tonight, if they might want to speak on their -- on their own behalf.

MR. MACMANN: All right. That's all the questions I have for this moment. Thank you.

MR. STRODTMAN: Commissioners? Ms. Loe?

MS. LOE: Mr. Palmer, the question or the pictures of the A-frames you took, were those the ones on the IG zoned lots behind the Orscheln?

MR. PALMER: So this actually depicts it, this plan here. The -- I believe there's three, but one might be hidden by the IG tag there, but roughly half of them are on a IG portion. And then where this

purple line is right here, that's the delineation between the IG district and the R-2. So as I said, like -- so the other side of Paris Road is kind of a -- in part of an industrial corridor kind of zoning that coincides with the railroad track. So you have IG over here, but then you also have it extending on -- on the other side of the tracks next to Paris Road. I'm assuming that that's kind of what was intended, at least in this portion of it, and I think that might have been a remnant of it where the IG exists over here. But then up here, this property is zoned agriculture and has been for as far back as I can tell. And so I'm not sure exactly where the IG originally ended, but I know the subject property in its entirety, including the Orscheln's parcel, was originally zoned agriculture, as well.

MS. LOE: So the pictures you showed us of the A-frames were the four-plexes built on the industrial-zoned lots?

MR. PALMER: Yes. Half of them, so --

MS. LOE: And then the other A-frames are noncompliant, multi-family on the R-2?

MR. PALMER: Correct.

MS. LOE: All right. So all the A-frames are really noncompliant or underzoned -- underbuilt for the zoning -- current zoning for them?

MR. PALMER: Or overbuilt.

MS. LOE: Or over --

MR. PALMER: I mean, it's -- it's a mixture of --

MS. LOE: Yeah. A mixture of R-2. They're from the '60s, it looked like, so -- all right.

MR. PALMER: They're -- they're older, yes.

MS. LOE: Yeah. How large are these two parcels?

MR. PALMER: I believe a total of 6.3 acres.

MS. LOE: And how big are each of the parcels?

MR. PALMER: I don't have that handy that I'm aware of.

MS. LOE: I looked it up. The little -- the north one is 1.92 acres and the south one is 4.47 acres. And the reason I was interested, I realize staff looks at each case on a case-by-case basis, but we did look at a case not far from this where it was a similar request to rezone PD to IG, and statement was made in that presentation that given the parcel size and the proposed division into separate lots, the ability to develop into the full spectrum of uses permitted within the IG will be limited. So I'm curious as to the statement in this case that -- that IG would permit a number of odious uses which were never intended or permitted by the planned district. Can you tell us maybe a little bit more about what might be permitted, even though we still have the smaller footprint lots?

MR. PALMER: Yeah. So we -- the statement of intent adopted with the 2012 plan included -- actually I thought you would have this question, so I brought it up on my phone. I believe the most intensive use that it allowed was cleaning, pressing, and dyeing establishments. Everything else was commercial in nature. It included alcoholic beverage sales, banks, hospitals, laundries, pet stores, physical fitness centers, radio-television -- you get the point. It's -- it's generally commercial in nature;

whereas, for the other case, it was also mostly commercial in nature, but it did allow further light industrial uses.

MS. LOE: The earlier case allowed additional light industrial —

MR. PALMER: Yeah. Compared to the —

MS. LOE: But this one is more restrictive in the uses.

MR. PALMER: Yes.

MS. LOE: All right.

MR. PALMER: And then the other difference there being the nonadjacency to residentially utilized land.

MS. LOE: Understood. But the existing R-2 currently to the south of the south lot is adjacent to IG, so that lot, I'm having a little bit of a difficult time understanding the adjacency issues, to tell the truth. The north one, I do see that we have the adjacency to R-1, but when I look across Paris Road, it looks like we have IG adjacent to R-1. So not a deal killer --

MR. PALMER: It definitely does happen.

MS. LOE: Yeah. We've -- there's a precedent.

MR. ZENNER: Ms. Loe, the IG adjacent to the R-1 on the west side of Paris, that is actually -- that was formerly a M-C, if I recall correctly, parcel that was rezoned for the purposes of Habitat for Humanity.

MS. LOE: Uh-huh.

MR. ZENNER: Back in -- two years ago, if I recall correctly, for affordable housing. There was an environmental assessment that had to have occurred with that property in order for it to be considered for the purposes of that type of development. And if I recall correctly, due to limitations and -- with the rail line and some other environmental, I would -- not environmental, but some other landscaping-related improvements, the separation between those two parcels of dissimilar zoning classification was significant. And that's, I think, some of the -- the R-1, I believe, was identified. That zoning classification was a significant downgrading of that parcel based on that zoning request, which was discussed as part of that.

MR. PALMER: And it's also based on the -- the -- I don't remember if it's -- it's not shown here, but I believe this parcel was zoned commercially to allow the Habitat restore deal in there, too. Right? Does --

MR. ZENNER: That, I don't recall, but I know that this parcel was formerly an industrial tract of land to the west of the -- to the west of the rail line, and had laid fallow for many, many years before being requested to be rezoned for the purposes of affordable housing creation. So while --

MS. LOE: Right. That may be the case for that specific lot, but as we know -- because the Paris Road is an industrial corridor and it does look to -- as if to the west of that corridor, it is largely R-1 and R-2 zonings.

MR. ZENNER: I wouldn't -- I don't disagree with you in that respect. I think as soon as you get to

the west of the rail line, we have an existing industrial park that's developed more midpoint to the overall Orscheln's property at the subject site. To the north, however, west of the R-1 property is actually multi-family -- fully developed multi-family off of Brown School Road, if I recall -- or Station, and then there is more R-1 further to the west of Brown Station. There is a dividing line here, as well, between -- I think when we look at the -- the development of the industrial district as it relates to the west side of Paris Road was influenced more by the rail line. Paris Road, in and of itself, acts generally in our mind as a physical boundary between industrial development, which was reliant at one point on the rail line, and then a transitioning or a buffering between the residential uses that move further back down Brown Station back to the east. The commercial zoning classification here and the use list that's permitted per the 2012 statement of intent actually offers a buffering between the existing residential development that's off of Alpine, as well as the nonconforming A-frames from an industrial use. Now, granted in the southeast corner of the subject site where we have existing IG and the existing A-frames that are against that IG, that really was not, at the time that this commercial development was approved as a planned district, I don't believe that that may have come into play. I was not here in 2007 when this project started, but I have been for all of the requested modifications, and retaining the controls that the planned district had in relationship to site plan approval was something that was -- has always been considered critical. The question that needs to be asked at some point possibly is does -- this property in its configuration with the exception of Orscheln's has remained undeveloped as a commercial project, given its location near the interchange along Paris Road, since 2007. So the question is, is the zoning designation the Achilles heel that's not permitting it to be developed? The planned district does provide the protections to the neighbors that they have relied on since 2007 as it relates to that development. However, not unlike the request that you heard at your last Planning Commission meeting, between Mexico Gravel and Vandiver, you have to analyze, well, why is the property in its condition, and then what impact does that create, what protections exist possibly to mitigate negative impacts that an IG zoning district -- an open IG zoning district may create on those residences. As Mr. Palmer pointed out, many of the buffering standards that are in the IG or that are in the general code are in the planned district as well. They're almost the same, so we have neighborhood protection standards that did not exist in 2012. The question is, do you feel as a Commission or is a land-use change to IG and the uses that are within that -- trade shop uses that may have standards where doors could open to the rear, you still may have to contain all of your activity inside -- those are not controlled because it would no longer be in a planned district. A planned district would allow those details of development to be addressed -- where your openings are in your building, hours of operation, lighting, all of these other aspects possibly that are being controlled right now by the detailed development plan, those all go away, and those are standards that are in existence to protect those adjacent property owners. I don't know necessarily if an upgrading of the land uses permitted on the site is that large a concern. It's the loss of any ability to possibly influence how those land uses may impact the adjacent neighbors that is the bigger concern; and therefore, the planned district may be a better option in order to ensure those protections are maintained and simply making a modification to the

statement of intent to expand the uses allowed within this planned project are better. Keep in mind also with the adoption of the new Unified Development Code, the segregated designation of CP-OP-MP went away. We now have planned district. And any uses within the land-use table are permitted within that planned district statement of intent. So you can mix up the land uses to include industrial uses now in a planned district, whereas previously you had to either go to the next highest zoning classification to be able to obtain them. And I think that's part of where Mr. Palmer's recommendation is that there's an option here to possibly modify the statement of intent versus getting rid of a planned district that provides additive protections to the adjacent property owners which have existed since 2007 when it was originally rezoned.

MR. PALMER: One other thing I would like to add, too, real quick is just that barring the -- the site in question and the two undeveloped lots -- so we're admittedly working with a small sample size, but the industrially -- the IG property to the east side of Paris Road has generally developed out with commercial uses and not industrial. So as Mr. Zenner stated, Paris, in this location at least, somewhat acts as a buffer or a --

MR. ZENNER: Transition.

MR. PALMER: -- yeah -- a transition into commercial away from the industrial that was placed based on the location of the rail line, so --

MR. STRODTMAN: Mr. MacMann?

MR. MACMANN: Thank you, Mr. Chairman. Mr. Palmer, can we turn our attention to the R-1 property that is accessed off of East Brown Station on Hill Haven? Can we talk about to the east of the property there?

MR. PALMER: Yeah.

MR. MACMANN: It's difficult for me to tell from this aerial view. It appears there are some buildings on the southern lots and none on the northern lots; is that correct?

MR. PALMER: It gets sparse as you go back there. I'll see -- I kind of covered them up, but --

MR. MACMANN: Okay. I can see -- I can see. All right.

MR. PALMER: There's a number of houses along Hill Haven, yes.

MR. MACMANN: Okay. But it currently is a whole R-1. It looks like an R-1 subdivision with ten, twelve, fifteen lots that is underdeveloped; is that correct?

MR. PALMER: Undeveloped maybe, but --

MR. MACMANN: But it -- it is not -- it is not built out; is that a better way to --

MR. PALMER: Right. Yeah. Yeah.

MR. MACMANN: All right. But that is all R-1. Just a note for further things, and I'll be done. The point staff has made about the industrial corridor, the IG corridor, which used to be the manufacturing corridor is quite easy to see on the citywide zoning map where you have the large gray that is bounded by a road or used site. There we go. Outstanding. That's all I've got. Thanks.

MR. STRODTMAN: Mr. Stanton?

MR. STANTON: Well, I think it's kind of been touched on what I had a question for, but, staff, a win-win in this situation would be instead of rezoning, modify the letter of intent and then make a case for that. That would -- that would protect some of the protections that were in the PD plan previously. Correct?

MR. PALMER: That's the basis for our recommendation.

MR. STANTON: Or leave room for interpretation negotiation with the other parties. Right?

MR. PALMER: Right.

MR. STANTON: Okay.

MR. STRODTMAN: Mr. Toohey?

MR. TOOHEY: So I thought the whole -- one of the benefits of the UDO was to not have nearly as much planned zoning. So what type of zoning -- straight zoning would staff recommend for this?

MR. PALMER: I think based on the -- the existing PD and moving away from PD plans, that it would be something more along the lines of an M-C for a mixed-use corridor or an M-N even, but that would be probably on the low end of what would be recommended there. But as -- as I stated, most of the properties east of Paris are developed in a -- in a commercial manner anyway, and I think that would -- that would be fitting.

MR. TOOHEY: Even though there's no other M-C out there?

MR. PALMER: I mean, M-C -- I mean, yes. That's true. I don't -- but I think that based on the development patterns, that would be the proper --

MR. STRODTMAN: Commissioners, additional questions? Mr. Palmer, if it was IG, what would be the neighborhood protection for the neighbors, the residential side? What would be the -- what would be -- would be required?

MR. PALMER: I believe it's a ten-foot vegetative buffer and an eight-foot screening device. I think Mr. Zenner is looking that up to verify, but I believe that's what it is.

MR. STRODTMAN: And that would apply to the land zoned R-1?

MR. ZENNER: A single-land two-family, Mr. Strodman, so it would be the R -- it would be R-1 and R-2, and it is a type three screening buffer which is, as Mr. Palmer stated, a ten-foot-wide landscape strip with an eight-foot-tall screening device.

MR. STRODTMAN: Thank you. Commissioners, additional questions for staff? None. We'll go ahead and this is a public hearing, so we'll go ahead and open the public hearing.

PUBLIC HEARING OPENED

MR. STRODTMAN: We just ask for your name and address.

MR. GEBHARDT: Good evening. My name is Jay Gebhardt; I'm a civil engineer with A Civil Group, and I'm here tonight representing the Raders family. I have something to hand to you. First of all, I'd like to thank staff for their report, and I typically try to do this without having to come and support their denial of my request to try to work this out. So I'm trying to work through this a little bit. I just have some things I'd like to read. The handout that I gave you is basically verbatim the planned district purpose, and

it goes toward some your all's questions to staff. Currently, the existing PD was never conceived to be part of this purpose and does not comply with that purpose. So it's -- it's kind of a doesn't fit thing. Staff has talked about the comprehensive plan and the Columbia Imagined plan shows this tract as commercial surrounded by a sea of industrial. And, personally, I think this is because -- well, and this because a long time ago, the City fathers decided that Route B should be the industrial corridor for Columbia. It appears the Columbia Imagined Plan just used the current zoning as its basis. And in 2006, 2007, I represented the Rader family to rezone this from M-C, controlled industrial, to the existing planned district. So just -- it's -- this project is going on and on and on and on like an Ever Ready [sic] bunny here, but it's -- it was M-C when we started this in 2006, 2007. It may have been A-1 before that, but it was M-C at that time. This issue brought up by staff is basically they're saying the protection is afforded by the planned districts trump the protections in the UDC. And, however, I don't think that is quite true. The UDC's neighborhood protection standards within the proposed IG zoning district provide more protection to surrounding residential than the approved planned districts. Kevin, who will be speaking after me, will go into more detail for you on that. If the uses allowed in IG are not a concern -- I don't believe they're a concern for a couple of reasons. The size of these two lots -- Ms. Loe kind of alluded to this -- but they're self-limiting. You will not see many of the uses allowed in industrial on these tracts because they -- the tracts are simply too small. Even the larger southern tract is encumbered by a slope that's covered with our tree preservation area, so even though it seems large, about a third of that tract is protected trees. The access for these tracts was limited by MoDOT. The northern tract, in particular, really limits the truck type of traffic that you could get in here which then limits the type of industrial uses that could be planned here or conceived. And just reading between the lines in the staff report, it appears that they would be okay with adding the appropriate industrial uses to the planned district, which says to me that the IG uses that we're talking about could fit on these lots. There's -- there's not really an issue with the use. It's really about these protections. And, you know, for the last nine months, we've been getting used to the new UDC and it's -- as part of this and the UDC's language to limit planned districts. This is an existing planned district that could be a poster child on the complications of planned districts and why they can be so unruly to manage and enforce, and I think Mr. Zenner would approve -- agree with me on this, that it has gone through many iterations in the last 12 years. The existing planned district does not meet the stated purpose of the planned district and because of this I would ask you to have some faith in the new code you worked so hard on to approve the requested IG zoning for these two parcels. If you do, what you will see built on this property will be very similar to what already exists on this stretch of Route B. And to sum up, we're asking you -- we are asking to follow the UDC's requirements for IG zoning. If this is found to be unacceptable, then we will follow the staff's suggestions to bring forward a revision to the existing PD statement of intent to add the industrial uses that will fit on these small lots. We'll do that, but we believe the IG zoning is better than the planned district approach because you get all or more of the same neighborhood protections without the administration and enforcement complications to the City that are requirements that are unique to planned districts bring with them. This planned district, part of the

reason this has not developed is because we have -- the Raders have been approached by people that just do not want to take the time or the risk to go through the planned district process. And that -- that has been an impediment from the very beginning on this. We feel that with the new UDC providing the neighborhood protections that they do, a lot of those concerns have -- have been addressed. Now, we have, you know, over the 12 years, I've gotten to know the Schusters who live behind the Orscheln's building very well with this project, and we've kind of agreed to disagree on just about every request that we've had on this, and they're here tonight to speak about their concerns. But we sincerely believe that the IG is good or better than the planned district, and it allows flexibility for a -- for example, when Koontz relocated from downtown, they looked at this site and walked away because of the complications of the planned district. So that is just an example of some of the things that could go on this site that haven't, and we're just trying to open that up. So if you have any questions for me, if not, I'll let Kevin speak. Kind of get into the weeds a little bit.

MR. STRODTMAN: Commissioners, any questions for this speaker? Mr. Stanton?

MR. STANTON: It's already a PD now. Correct? So I see where you're coming from, but then changing the zoning again and going through that whole process, I'm just in my mind thinking you've already got the PD. Work within the parameters you have by modifying the letter of intent and then preserving what's already on the books is kind of where I'm looking at it and --

MR. GEBHARDT: Right. And I appreciate your -- your willingness to look for a win-win here, and we thought staff would support this when we first started this, but they don't. And it -- it really boils down to, Mr. Stanton, if you were to come to me and say I want to locate my cabinet shop here or my commercial business, something of that nature, we would be looking at about a \$25,000 expense to do the plan, and we would be looking at three to four months' time with the risk of getting the plan approved, and there's just not the desire to do that if we can avoid it. And part of the beauty of this new UDC that you guys went through that process is to allow these open zonings and yet cover all those protections that we had always done in planned districts. So we hope that this is an example of where you can give the UDC a chance to do what it was designed to do.

MR. STANTON: So you're saying that the buffers in the new zoning would be better than what's in the planned development at this time?

MR. GEBHARDT: There are some things -- there are some things that Kevin is going to speak to you about that are better.

MR. STANTON: Because I think my fear is, okay, we give you the IG, then you're -- if you get -- it's kind of like a vine, and then --

MR. GEBHARDT: Well, keep in mind this is like a spot --

MR. STANTON: And then we -- then we're setting the precedents and then everybody is like, well, you let them get it, and then the next people rezone and they want to move it.

MR. GEBHARDT: Right.

MR. STANTON: And I feel like the R-1 is going to be in jeopardy.

MR. GEBHARDT: Try to keep in mind -- try to keep in mind this is like a spot zone of commercial in a sea of industrial, so there's not -- we're not setting really a precedent for anyone to follow our lead on this. It's -- it's surrounded by industrial except for Larry and Betty's neighborhood, Hill Haven, and a few A-frame apartments.

MR. STRODTMAN: Ms. Loe?

MR. STANTON: Thanks, Jay.

MS. LOE: Would you -- the sites do have slightly different adjacencies.

MR. GEBHARDT: Yes.

MS. LOE: Would you consider a different zoning for the different lots? I mean, would you consider, for example, an M-C for the north lot and then IG for the southern lot?

MR. GEBHARDT: I would have to speak to the Raders about that, but I -- I don't -- I don't know. To be honest, I don't know that answer.

MS. LOE: Okay.

MR. STRODTMAN: Any additional questions? Mr. MacMann?

MR. MACMANN: Your partner may be able to address this more specifically. Can you explain to us the difference in lighting heights for light standards on the PD and --

MR. GEBHARDT: Mr. Murphy can do that for you.

MR. MACMANN: All right. That's fine. We'll do it that way. Thanks.

MR. GEBHARDT: He'll be able to do that. He's got those facts and figures in his head and I don't.

MR. STRODTMAN: Any additional questions? Thank you, Mr. Gebhardt.

MR. GEBHARDT: Thank you.

MS. SCHUSTER: My name is Betty Schuster, and I'm the Betty of the Larry and Betty that Jay was talking about. And it is true, we think the world of Jay and also Kevin, but I'd like to point out -- well, first of all, I know nothing about planning and zoning. I'm a financial advisor, and we use acronyms all the time, and the only place I think you use more than in my business is with planning and zoning. So my husband will probably talk and he's going to be able to talk much more eloquently than I about this issue, but I can tell you that our house -- and maybe Mr. Palmer can point out where our house is. But our house currently -- we have a very nice home and it backs up to the Orscheln building. And when the Orscheln building was developed, there were all kinds of promises about buffers and landscape and screening devices, and I can tell you none of that occurred and the landscaping has all died, and when we sit down in our kitchen in the wintertime when the leaves are off, the light shines in our eyes. So I just wanted to -- like I said, I cannot talk technically about this issue, but I can talk about a homeowner that takes a lot of pride in their home and my husband, Larry, used to be on the Planning and Zoning Commission, and he did a good job with that and he talked to neighbors about not stopping development, but making development work with the neighborhood, and I think that's what this is all about. We're not anti-development at all, but having a residential neighborhood and an industrial neighborhood back up to

each other just doesn't make sense. So, thank you.

MR. STRODTMAN: Any questions, Commissioners? Thank you, ma'am.

MR. MURPHY: I've got a few handouts here real quick, if I can give those to you. And if I can get these back afterwards so I can recycle them for Council, I'd appreciate it. Chairperson, Commissioners, Kevin Murphy with A Civil Group, offices at 3401 Broadway Business Park Court. I'd like to start out to say that this is not a commercial district, this is a commercial corridor, if you look at the zoning map. When the comprehensive plan came out, they did not go and immediately change any currently zoned things to anything drastically different. This was a commercially-type zoned planned district. That's what it stayed as. Again, you look up and down this corridor, there's commercial spotted in and out it, but on both sides of Paris Road from south of I-70 on up to Waco Road and beyond is industrial. This corridor is commonly known throughout town that the building industry is contractor alley. This is where people go to get supplies to build, to do their things, to do -- to do whatnot. But there's a lot of information I handed to you on the -- on these documents here. But, first, I'd like you to read the purpose of the IG district, a part of the purpose. It's intended to allow for manufacturing, warehousing, office activities, general industrial uses, and access to underground mining of resources, which would not occur here, storage activities while protecting surrounding areas from any adverse impacts of those activities without the need for rezoning to a planned district. Again, the intent of the UDC was to get away from planned districts. We would hope that you let this work in this instance. I think staff, even though disagreeing with us, has helped our case more than anything. They -- the protections in the UDC are far greater. You will see on the first couple of pages here, I've highlighted -- well, I've got three columns. The existing planned development zoning and the protections for screening adjacent to residential properties, tree preservation, lighting. The next page. Let's see here. I think of these -- height, area requirements, and noise, smoke, and all -- and other nuisance-type regulations. You can see the proposed IG zoning highlighted is above and beyond is what I'm showing compared to the current restrictions in the PD zoning. And again, as -- and so we go from that to the uses. The only thing that would be worse, I would say in my mind, would be building height on these. IG, the industrial zoning, does not have a building height requirement unless the building is within 25 feet of a property line. The fact of the matter is the types of uses that would be practical and feasible on these -- a hotel is a use. The feasibility and practicality is that a hotel is not going to go here. This -- this is what I do for a living. I site hotels; I design hotels. Hotels are going to be on I-70. They're going to be on 63 where you see them. They do not come off the highway behind stands of trees and this and that, so that is the only building. If you drive up and down Paris Road, I don't believe there's a building, one or two that may be close to two stories in height. I don't know that any are actually two stories in height, but just general buildingwise, maybe up to 35 foot in height at max. The type of uses here, again, besides a hotel, which is not going to locate off of a highway -- think of all the hotels in town -- that's where they're at. The next few pages there are -- the first -- well, the next -- let's see. How many pages do I got here?

MR. STRODTMAN: Mr. Murphy, I'm going to have to ask you to wrap it up, so if you could kind

of hit the highlights.

MR. MURPHY: Well, anyway, well, I'll get into the uses. So, the -- the industrial uses that are allowed in the current zoning district are all highlighted on the next couple of pages there. The ones in blue are indicating the additional restrictions that, basically, on that lot -- that north lot versus what would be -- the next few pages, again, highlighted in green are the uses in the current zoning district that are allowed in here. I've also put notes as to some of these odious type uses that are allowed in the industrial zoning that just, again, feasibility, practicality because of size, location, everything, do not count -- outdoor recreation, drive-in theaters. Again, adult retail is currently allowed in that zoning and this zoning, but the adult retail has restrictions on it with the industrial zoning where the current zoning doesn't. Heavy commercial services are -- are actually light industry, semi-industry, such as laundry service, lumberyards, printing shops, sign shops, equipment rental. Any heavy industry would have to come back for a conditional use and be approved that way. These are more contractor type things that belong in contractor alley, but this -- just to wrap it up again, I think the UDC code again is proven to provide better protections than this and we don't have to come back when a specific buyer comes and asks for a specific plan. He wants to move the building to a different location than the plan that we currently have or he wants to change the size of the building or something like that, we are coming back here going through a three-month's process and -- and then getting hit on by the neighbors time and time again and being extracted more and more each time we come back and --

MR. STRODTMAN: Any more relevant information, Mr. Murphy?

MR. MURPHY: No. No.

MR. STRODTMAN: Thank you, sir.

MR. MURPHY: Thank you.

MR. STRODTMAN: Commissioners, any questions for Mr. Murphy? I see none. Thank you, sir.

MR. MURPHY: Thank you.

MR. SCHUSTER: Planning and Zoning Commission Members, my name is Larry Schuster; I live at 3109 Hill Haven Lane, and I'm going to try and wake you up a little bit here and change the tenor of this a little bit. The number one thing we're going to do a Mark Twain quote, "The only thing you can be certain of is death and taxes." I'd add one other thing, that the City will change its mind at will. And land-use issues development, for those of you that are familiar with the industry, it's called land banking. They call it land banking because you buy pieces of property like this and you end up sitting on them sometimes forever waiting for just the right tenant, waiting for the right set of circumstances. Your purview as Commissioners, though, does not include making accommodations so that it affects the developer's pocketbook in a positive way. You want to be odious, you don't want to be ornery, or try and make it difficult, but that's part of developing. A tenant comes forward, it takes 25 grand to put their idea in place, that's part of it. That's what you signed up for. It's a nonissue, you should forget you even heard it. The difficulty of going through the process, a little bit there, but for all practical purposes, the Raders bought this under the current set of rules. They're intelligent, capable people, and they signed up for that,

so that's irrelevant. So, let's get down to what is relevant. This property, when we started, Jay rightly stated, it was M-C. The owners came to us and said, you know what, it's never going to develop as M-C. We can't get anything going in industrial on this. We want it to be O-P. And we said, you know what, as a former Commissioner, I was in my 20s when I started as a Planning and Zoning Commissioner, and I can't believe how full circle this C-P UDC has come because I helped the C-P districts or the planned districts because the complaints were the open districts weren't flexible enough. So now we've come around and we're going to get rid of the planned districts so we can get rid of the flexibility so we can have the UDC which is more flexible which is kind of where I started my comment with, the only thing that we can rely on is death and taxes and the City policies will change and you can't -- you don't want to bet your life on them. So, this started out actually this property -- 400-and-some acres, if you use a concentric circle around the intersection of 63 and Paris Road, was owned by Dr. Weaver. Dr. Weaver was the first ag econ of professor at the University of Missouri, and he used it for an ag experimental station, brought kids out there, did all kinds of stuff with it, developed -- his daughter, Ruth Arbuckle, who gave us Arbuckle's Tiger Stripe Ice Cream and Buck's Ice Cream Palace on campus. They started developing it, and, yes, this is agriculture up that, but what hasn't been mentioned, it's all platted for residential. That's what -- all you see, all those little lines up there, the green lines, the purple lines, that's all platted for residential. And, yes, there's only a few houses on the southern end of it, but it all platted residential. That hasn't been brought up yet. So, we start out with M-C, we go O-P. The developer that wanted to use it for O-P wanted to put a gym in and serve the resident -- or the workers of the Route B corridor, and that gentleman died in the middle of the project. It sat vacant, and then about that time, Jay came along, and we said, okay, O-P. Didn't work. Let's work with it, the planned districts. But I wanted to state about the planned districts is the standards that are in place that the staff says we need to stick to is they were negotiated standards. So if they want to go back and change the letter of intent, we intend to be there at the negotiating table and say what are you going to give us? We live here. You heard my wife more politely state to you the conditions that we live there than I. So we've went from M-C to O-P to C-P, and now we want to go back to open industrial. I work in this industry. My background is pre-architecture. I have class in community planning, construction, design. I've served, as you guys have served, and I am totally confused. You can't keep up with it, so where do you think the average person is? So does it really make sense that we are just like a set of windshield wipers, back and forth and back and forth. This is up against residential. It's completely different than the tract that you just looked at about a month ago, and I helped -- and I left the Council in '93, moved up there, and then helped the East and West Henley neighbors negotiate what we ended there where the industrial is now and then the Methodist church has an office there, and then there's the -- a couple of doctors' offices. What that all was intended to do was use a concentric zoned -- excuse me -- concentric zone land-use planning standard to step things away in gradual. So what we did with the Henley Neighborhood Association, we put the road against the tree line, we put the commercial on the other side. This was when Highway 63 was coming through as four lanes, and then we had nothing on the other side. So the industrial over there makes sense because

there is no impact on any neighbors whatsoever. And we successfully protected the neighbors as they live. They have been very satisfied with that. They're not satisfied, I know, with the industrial. It's kind of a gray area, but there is nothing over there. And one of the things that made the difference was would you want industrial in your backyard? Would you want Highway 63 in your backyard? We can go to large cities like Kansas City, St. Louis, drive up and down Clayton Road and Ladue, and you go from neighborhood to neighborhood, and you see transitional zones where there's -- at an intersection. Let's take West Broadway and West Boulevard, right in the middle of that is a D & H Drug and a frame shop. It's a great place for it, but then it just steps back out the other way, so there's places for that. This is not a place to create a bunch of industrial zoning. Right now, when the wind is out of the northwest, I smell vanilla because Quaker Oats is making rice cakes. When it's more out of the northeast, I smell hickory brine because Oscar Meyer is burning hickory sawdust to make hot dogs. Orscheln's, we get to hear the truck traffic and all the doors banging and things like that, and you heard my wife talk about the lights shining in our face. If we want to be able to regulate building height, that berm is cut down so you've had a chance to see a site. It's been cut down probably -- how much, Jay, ten to twelve feet? Well, limit the building height to ten foot sidewalls. But if you put this into the open, our ability to negotiate and force parties to come together is gone. They may have the same protections there, but the other part of the problem, as my wife talked about, the buffer is dead. We have given up calling the City. You know how these standards are enforced? Mr. Zenner, how are they enforced? On a complaint basis or do you guys go out and look for violations?

MR. ZENNER: They are on a complaint basis.

MR. SCHUSTER: So translate, they're not enforced. The only real action against enforcing these is civil.

MR. STRODTMAN: Mr. Schuster, I'm going to have to ask you to wrap it up.

MR. SCHUSTER: Well, let's be a little bit more flexible, Mr. Strodtman. How long did the developer take?

MR. STRODTMAN: You've already gone past their time.

MR. STRODTMAN: Well, I don't think I've been up here 20 minutes yet, but that's no problem. The bottom line is, if you throw this into an open zoning district, you remove our opportunity to face them and say let's do this. We've already presented some options to them, they declined them, because this is really a lot bigger issue than just this one because what's going to happen with that whole other corner up there. We looked at some things -- solutions. They weren't interested. But the only thing that we -- you can do to force solutions is to leave in place standards that force us to talk to each other. Questions?

MR. STRODTMAN: Thank you, Mr. Schuster. Commissioners, is there any questions for this speaker? I see none. Thank you, Mr. Schuster.

MR. SCHUSTER: You're welcome, Rusty. Take care.

MR. STRODTMAN: Additional speakers, please?

MR. RADER: My name is Jay Rader; I live at 5612 Lightpost Drive here in Columbia. My family

owns these two properties, and I run my family's company. So I guess what I'd like to point out is that this is used as an industrial corridor. Every one of you that has spoken, including Mr. Schuster, has referred to it as a corridor. So it's really -- if you look at the east side of the road -- or the west side of the road -- sorry -- it's a great fit. You know, the Columbia Imagined commercial district or whatever they call it really doesn't make any sense and it doesn't have any great base, you know. It's, like Jay said, it was -- it looks like they just -- because one of the parcels was PD, they just said, hey, we'll just keep it going. So that's how they determined that. Then also, as you guys have heard, the PD is designed for certain uses that really don't apply to us and I think if -- if we were here today trying to go to a PD, you wouldn't want to hear it and it wouldn't make any sense. So, really, the IG has all of the same protections or better, and I really think we should hopefully allow that to do what it's designed to do.

MR. STRODTMAN: Commissioners, any speakers for -- Mr. Stanton?

MR. STANTON: Oh. Can you say your name again? I'm sorry.

MR. RADER: Jay Rader.

MR. STANTON: Mr. Rader. I got you now. I got you in PD right now. So why would I give up that position? I have you right now. You're in a PD right now, and I've got you under standards of protection that were negotiated maybe before your time.

MR. RADER: Sure. They were before my time.

MR. STANTON: Why do I want to give up my position?

MR. RADER: They were before my time.

MR. STANTON: Convince me to give you -- convince me to give up my position. I've already got you.

MR. RADER: Sure. So as I said, really, what it comes down to is that it's -- it makes it very difficult for us to market the property to any potential tenants that want to come in and build something. We've had multiple people that have come in that -- and have built down the road because they couldn't take the time to -- the three, four months to deal with coming through this whole process and potentially getting turned down when, you know, they had their own business needs that they need to move quickly. So, you know, that it makes it very difficult for us to develop this property.

MR. STANTON: I don't have -- we don't have access to the current PD plan. I thought you showed it up here, didn't you?

MR. RADER: Yeah.

MR. STANTON: So -- okay. I'm kind of hearing both ends. I'm a win-win kind of guy. I'm listening to the homeowners and I'm listening to you guys. I'm a free market guy, capitalist all the way. How do we make this work because, I mean, I've got you now. I've got you now. So how can we make a win-win here?

MR. RADER: Well, again, I can also appreciate searching for a win-win, and we don't want anybody to feel like they lose. But in the current situation, we are the losers. I'm by no means an expert of zoning. I have to pick up the phone every time I have any question on anything. But from my

understanding is that every -- even with the use being approved, we still have to come back and talk about where the building is, the shape of the building, how many trees are on the lot or, you know, whatever you all require of these changes. Again, that process is three to four months, it costs money, and you run the risk of not being approved.

MR. STANTON: I guess where I'm at is there's -- you're real close to maybe -- I mean, you've got people that are willing to negotiate. I just feel like you're real close to getting what you need. It's hard for me to support it if I feel like you haven't really just made an effort. Like, have you -- have you put yourself in their position -- your opponent's position? Let's just say that. Have you put yourself in your antagonist's position and seen where they're coming from, or are you just like --

MR. RADER: Yes. Sure. I certainly can understand and appreciate that they have an interest in the area. And, yes, we have made efforts on this. We have -- I've -- I've spent quite a bit of money with -- with Jay Gebhardt to look at other uses. We had a very, very viable use that came to us. It's probably been about two years now. And as I said, they simply went right on the other side of the highway. They -- they liked our side. It was a great fit and it's something that every single one of you would have been proud to have had right there on that corridor. And they got denied because they actually -- they had a very similar use. It's a construction-type thing, but because they assembled a shower door, they were considered a manufacturer instead of a commercial use, so they got turned down simply because -- it was a glass company -- because the glass shower doors come in and they assemble them on site, which, at the time, we kind of argued that, you know, it was a little petty, but, you know, hey, you know, that's what the code allowed at the time, so we lost that deal.

MR. STRODTMAN: Ms. Loe?

MS. LOE: Again, I do feel as if there's different conditions around each site, and I feel that we're really talking about more the conditions on the north site than the south site, so I have two questions for you. One, would you consider a different zoning for the north site? Would, M-C, for example, versus IG that may be more palatable to the residential. The other one is would you consider rezoning the south site only and leaving the other one part of the PD, just as options to move forward?

MR. RADER: Okay. I have a question, just to clarify, before I pin myself in any corners. Are there any specific concerns that you see that would, by doing that, would alleviate those? Is there anything specific?

MS. LOE: I believe some of the primary concerns adjacent to the residential is the uses that -- some of the uses that may be allowed in the IG and they wouldn't be allowed under M-C, necessarily or M-C is considered a more palatable adjacency. They both would have buffering.

MR. RADER: Correct. Which my understanding is that the buffering in the -- in the new code is actually more than the current code, so even on the -- on the south and the north, they would both have more buffering with the new code.

MS. LOE: It's a different use group, basically.

MR. RADER: Sure. So I guess my thing is I would say kind of to -- I believe it was your point

earlier that your all's -- the meeting you had last month with the other property, staff even said that the overall uses that we would be able to put on this property would be more restrictive than that, so I'm just not sure I necessarily would understand why you would need to split them up.

MS. LOE: To address the neighbors. In this case, we are directly adjacent to R-1, which we were not in the other case. So on the north site, it has adjacency. So in order to address the R-1 neighbors' concerns.

MR. RADER: It's difficult to say here on the spot if that's a solution that we could work with. I think it certainly is something that's -- it would be more appealing to us than the current zoning, yes.

MS. LOE: And the only other option I can think of is just rezoning the southern lot, which, frankly, I have less objection to because it's across from industrial zone and has very limited residential.

MR. STANTON: So you're saying IG for the south?

MS. LOE: Yeah.

MR. STANTON: Win-win.

MR. STRODTMAN: Mr. MacMann?

MR. MACMANN: Just an observation. Mr. Rader and Mr. Schuster could take this for whatever it's worth. There seems to be some pent-up less positive feelings over a buffer that was not maintained.

MR. RADER: Yes. Which I don't know --

MR. MACMANN: Mr. Rader, I'm just going to say that one more time. I just -- you may have -- there may be some issues.

MR. RADER: The buffer is a part of the Orscheln's --

MR. MACMANN: It would seem that the Schusters have concerns with -- and I'm not trying to characterize too much. But what I heard was they feel in a position to negotiate with the current zoning, the PD, whereas in the IG, they don't feel they have that flexibility. And Mr. -- Jay has pointed out clearly that there are differences in the -- that may not -- that may even be more in their favor. What I'm pointing out is that I don't -- I didn't get the impression from the Schusters that they feel that these protections will be enforce and they feel they have their best position now. I think some of their fear could be alleviated, ameliorated in some way if a buffer that hasn't been maintained over several years, because the Orscheln building is not new, were addressed.

MR. RADER: Yes. So, the Orscheln's property is not our property, and we did not -- I believe there's some trees there that were put in when they developed -- when Orscheln's developed there -- it was not us -- and they died and it's my understanding that, yes, Larry and his wife called multiple times to see if that could be enforced and it was not. I don't -- I don't know that that responsibility necessarily falls on us.

MR. MACMANN: Well, it doesn't, but you can -- as Commissioner Stanton said, you can maybe understand their reticence, their concerns?

MR. RADER: Certainly. I mean, I think that really that's an excellent point for the fact that the planned districts, the enforcement is very difficult with all of the different planned districts and the different

rules at each one of them all over the City. It's my understanding that's why, in general, staff is kind of looking to get away from planned districts.

MR. STRODTMAN: I think the whole enforcement is a problem and not just for planned, but just in general. It usually is based on complaints and not that they're out there patrolling, looking for something out of whack. They don't quite have those resources, I don't think.

MR. RADER: Sure. If we owned the Orscheln site, I would be happy to go put some trees back there, but I don't own it.

MR. STRODTMAN: Commissioners, any additional questions? Thank you, Mr. Rader.

MR. RADER: Thank you all for your time.

MR. STRODTMAN: Any additional speakers like to come forward this evening before we close the public hearing portion? We'll go ahead and close the public hearing portion.

PUBLIC HEARING CLOSED

MR. STRODTMAN: Commissioners, questions? I've got a question for staff. Was the Orscheln site, is that part of the PD? Was that a part of the original PD?

MR. PALMER: I believe it was in the early renditions, and then it is -- I believe it's its own PD plan now.

MR. ZENNER: And I can't -- yeah. And I can expound on that based on the fact that I've been on staff long enough to know the history. As Jay stated, it's been quite interesting. Yes. The Orscheln's was originally part of the 2007 plan. As the Orscheln's site was built out, it basically absorbed the entire allotted square footage per the original planned district. When a plan revision came through to make some modifications to the site, there was a rendition of the plan that basically indicated that there was no development potential for the two outside parcels that are the subject of this request, hence an application was presented to increase the total allotment of square footage to add the 28,500 that's allocated between these two sites. At that time, and I believe that was the 2012 plan, at that time the ordinance that actually approved the addition of the 28,500 square feet of commercial land area or square footage specifically excluded the Orscheln site. The amendment, because the building was built, took it out, and the Orscheln's is governed by the original planned district plan and, therefore, it falls under a separate set of regulatory requirements, a similar, but separate ordinance document. So it was part. It is not part right now of anything that we're discussing here, so the application that is before you is actually for just the north and the south parcel with the 28,500 square feet, which is currently the cap on the total developable area. The site, if I recall correctly, initially was proposed as a 50,000 square foot retail center. We're at 78,500 right now with the additional 28,000 that was asked for during the last plan amendment. And to further address, I believe, Mr. MacMann's inquiries to Mr. Lender -- or Jay, we are currently actively pursuing rectification of the landscaping issues with the Orscheln property separately. Our arborist has gone out. We are aware and we are looking at enforcement activity at this point to ensure compliance with the originally approved plan. The original plan that was presented and adopted was modified, went through a minor revision. Landscaping that would have otherwise been required

because there was originally parking behind that structure was eliminated. There had been changes to the development plan that as permitted under the former C-P plan standards were considered a minor amendment and, therefore, were administratively modified. So we -- there are some things here that have occurred that were permissible under the former regulations. The lack of the live landscaping which has always been a requirement of our planned districts, however, is being addressed at this point to replace what should have been maintained in good growing order. So I don't know what the resolution of that is and I don't know where we are in the process.

MR. MACMANN: Well, thank you, Mr. Zenner. I'm glad that -- I'm very -- you know I'm very glad that that's happening.

MR. ZENNER: Yeah. So, I mean, we are actively pursuing this and I think, Mr. Strodtman, you are correct. It is a -- the elimination of our desire to use planned districts has to deal with the overall administration and our active ability to administer the unique nature of all of these planned districts that we do have and their unique standards is limited by the fact of staff resources. We are very understaffed as it relates in enforcement and that is part of the -- the issue we have. Elimination of planned districts is an objective internally. We would like to create an easier process. We would like to let the Code operate as it is envisioned. However, in certain instances, planned districts are going to exist to address competing issues. Staff is not so happy-go-lucky to think that we will never have another planned district just because we would not like them. Depending on the circumstances, we very well may. We would like to eliminate them in all instances where possible, however.

MR. STRODTMAN: Thank you, Mr. Zenner. Commissioners, additional questions for staff? Comments? Mr. Stanton?

MR. STANTON: I support Ms. Loe's position on this issue concerning maybe splitting the zoning, if possible, south end IG.

MR. STRODTMAN: I think the only problem with that, Mr. Stanton, is it's not being presented to us today as a split. Am I correct in that, Mr. Zenner, that that would be something that we would have to get the applicant to --

MS. RUSHING: Correct. We'd have to deny this request.

MR. STRODTMAN: -- be considered or -- you know.

MR. ZENNER: That is correct. The applicant is driving the boat at this point. If the applicant is not consenting to split the zoning action, this is an up or down vote on the application as it has been submitted for Council's consideration.

MS. RUSHING: I'll make a motion if that --

MR. STRODTMAN: Ms. Burns? I think, Ms. Burns, did you have a --

MS. BURNS: I'm prepared to hear Ms. Rushing's motion. I just -- again, a lot of commentary on this. I appreciate it. I feel like we went way out and we came way back in talking about this issue. It concerns me when the applicant -- that they're -- the people that are interested in developing this property can't work the additional months' time. I think that that's part of good development is taking the time to

put in the time and I'm very concerned about the negative impact on the R-1 zoning. And I'm encouraged by the applicant's apparent understanding or allowance that they would amend the statement of intent, so I don't plan on supporting this.

MR. STRODTMAN: Ms. Rushing?

MS. RUSHING: I'll go ahead and make the motion.

MR. STRODTMAN: Yes, ma'am.

MS. RUSHING: A request by a -- I move to approve a request by A Civil Group on behalf of Plaza Road Plaza, LLC, to rezone two properties containing a total of 6.3 acres from PD, planned district, to IG, industrial district.

MR. STRODTMAN: Thank you, Ms. Rushing. Do we have a second?

MS. LOE: I'll second.

MR. STRODTMAN: Ms. Loe, thank you. Commissioners, Ms. Rushing has made a motion for approval and Ms. Loe has seconded. Do we have any discussion on this motion? Yes, Ms. Loe?

MS. LOE: I just wanted to make a comment that I understand the concerns that the neighbors have, and I understand their arguments that have been brought forth both for and against. However, the Code does not prohibit IG adjacent to R-1 or R-2, and we do appear to have a fair number of that in the City. So, that alone for me is not an argument against allowing this. I'm also -- have to take into account that the neighbors that have come forward are not actually adjacent to the actual properties that are -- this request is being made for. And the neighbors that do directly -- are adjacent to it have not provided any comment. So from what I can tell, you've already been impacted and it sounds as if you do have some difficulties and I empathize with that, but I'm not convinced that these changes will necessarily impact that further. So while this is -- I'm conflicted about this, I am going to vote in support of it because of what is permitted by Code and because of the protections that are still allowed by the Code.

MR. STRODTMAN: Any additional --

MS. RUSHING: And I think they made an excellent argument in the written materials that they presented in favor of their position.

MR. STRODTMAN: Any additional questions or comments, Commissioners? If not, I'll ask Ms. Burns for a roll call.

MS. BURNS: I'm ready.

Roll Call Vote (Voting "yes" is to recommend approval. Voting Yes: Mr. Strodman, Ms. Rushing, Ms. Russell, Mr. Toohey, Ms. Loe, Mr. Harder. Voting No: Mr. MacMann, Mr. Stanton, Ms. Burns. Motion carries 6-3.

MS. BURNS: Five to three, motion carries.

MR. STRODTMAN: Thank you, Ms. Burns. Our recommendation for approval will be forwarded to City Council.

MS. RUSHING: It should be five to four.

MS. BURNS: I'm sorry. Six to three.

MR. ZENNER: Six-three.

MS. RUSHING: Six to three. Okay.

MR. STRODTMAN: Six to three was the correct count, but it's still for approval, so the approval will still be our recommendation and that will be forwarded to City Council. But I also just want to make sure the Schusters are aware and anyone else that is involved in this situation to please come to City Council, and you will have an opportunity to speak to the actual decision-makers who actually get the final say in that. So if you're here tonight, we thank you for coming tonight to speak to us and if you weren't able to make it tonight, then there is opportunity to go to City Council.

MR. ZENNER: And, Mr. Strodtman, if I may, this is not a -- no greater than 75 percent of the Commission voted in favor of this. It is automatically an old business item for Council's consideration, so public input will be given by right, second reading, at the Council meeting, which, I believe, is the first meeting in March.

MR. STRODTMAN: In March. Okay. Thank you for that, Mr. Zenner.