



City of Columbia, Missouri

Meeting Minutes

Planning and Zoning Commission

Thursday, August 19, 2021
7:00 PM

Regular Meeting

Council Chambers

I. CALL TO ORDER

MS. LOE: I'm going to call the August 19, 2021 Planning and Zoning Commission meeting to order.

MS. LOE: Ms. Burns, may we have roll call, please.

MS. BURNS: Yes. Ms. Loe?

MS. LOE: Here.

MS. BURNS: Mr. Stanton?

MR. STANTON: (Not in Council Chambers)

MS. BURNS: Ms. Burns. I am here. Ms. Rushing?

MS. RUSHING: Here.

MS. BURNS: Mr. MacMann?

MR. MACMANN: Present.

MS. BURNS: Ms. Geuea Jones?

MS. GEUEA JONES: Present.

MS. BURNS: Ms. Placier?

MS. PLACIER: Here.

MS. BURNS: Ms. Kimbell?

MS. KIMBELL: Here.

MS. CARROLL: (Not present.)

MS. BURNS: Mr. Stanton.

MR. STANTON: Here.

MS. BURNS: We have eight, we have a quorum.

MS. LOE: Thank you.

Present: 8 - Tootie Burns, Sara Loe, Joy Rushing, Anthony Stanton, Michael MacMann, Sharon Geuea Jones, Robbin Kimbell and Peggy Placier

Excused: 1 - Valerie Carroll

II. INTRODUCTIONS

III. APPROVAL OF AGENDA

MS. LOE: Mr. Zenner, are there any adjustments or additions to the agenda?

MR. ZENNER: No, there are not, ma'am.

MS. LOE: Thank you. We don't have any adjustments or additions.

MS. GEUEA JONES: Move to approve.

MR. MACMANN: Second.

MR. STANTON: Second.

MS. LOE: Seconded by Commissioner MacMann. I will take a thumbs up approval of the agenda.

(Unanimous vote for approval.)

MS. LOE: Unanimous with the eight present.

MS. BURNS: I will abstain. Since I was not present at the last meeting, I will abstain.

MS. LOE: This is the agenda.

MS. BURNS: There I go again. I approve the agenda.

MS. LOE: Thank you.

Move to approve

IV. APPROVAL OF MINUTES

August 5, 2021 Regular Meeting

MS. LOE: Everyone should have received a copy of the August 5th meeting minutes. Were there any additions, edits to the minutes?

MR. MACMANN: Move to approve.

MR. STANTON: Second.

MS. LOE: Moved by Commissioner MacMann, seconded by Commissioner Stanton. I'll take a thumbs approval on that.

(Seven votes for approval; Ms. Burns abstention.)

MS. LOE: Seven approved, one abstention.

Move to approve

V. SUBDIVISION REQUESTS**Case # 224-2021**

A request by Allstate Consultants (agent), on behalf of the Missouri Alpha Chapter of Pi Beta Phi House Corporation (owner), for approval of a one-lot minor subdivision plat to be known as Pi Beta Phi Plat 1. The subject property is addressed as 511 Rollins Street and is zoned R-MF (Multiple-Family Dwelling) district. The plat is requested to bestow legal lot status in advance of a proposed building addition.

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 the "Pi Beta Phi Plat 1".

MS. LOE: Thank you, Planner Smith. Before we go to questions for staff, I would 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. Are there any questions for staff? Commissioner MacMann?

MR. MACMANN: Thank you, Madam Chair. Planner Smith or Manager Zenner, are we going to address 29-6.5(b) in our redo of the UDC or are we just going to let that go?

MR. ZENNER: As it relates to legal nonconformities?

MR. MACMANN: Correct.

MR. ZENNER: We can discuss what may be troubling the Commission with that particular section. I was unaware of any issues.

MR. MACMANN: We'll come back to it at another time. Thank you.

MS. LOE: Any additional questions for staff? I see none. This is a subdivision request, not a public hearing, but we do typically allow for public comment, if anyone has any public comment that they believe would assist us in our review of the case.

PUBLIC HEARING OPENED

MS. LOE: If there is not anyone that would like to make a public comment, we will close public comment.

PUBLIC HEARING CLOSED

MS. LOE: Commission comment? Commissioner MacMann?

MR. MACMANN: If my fellow Commissioners have no questions or concerns, I will make a motion. In the matter of Pi Beta Phi Plat 1, approving the final plat, I move to approve.

MS. RUSHING: Second.

MS. LOE: Seconded by Commissioner Rushing. We have a motion on the floor.

Any discussion on this motion? I see none. Commissioner Burns, may we have roll call, please.

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. Recommendation for approval will be forwarded to City Council.

In the matter of Pi Beta Phi Plat 1, approving the final plat, move to approve.

Yes: 8 - Burns, Loe, Rushing, Stanton, MacMann, Geuea Jones, Kimbell and Placier

Excused: 1 - Carroll

VI. PUBLIC HEARINGS

Case # 140-2021

A request by A Civil Group (agent), on behalf of Boone Development, Inc. (owner), for a major revision to the Arbor Falls PD (Planned Development) to be known as "Arbor Falls PD No. 4". The new PD Plan includes a revised site layout, a revised statement of intent (SOI) reflecting a change in use from multi-family units to one-family detached dwelling units, and revised design parameters. The proposed PD also revises the on-site amenities previously approved under the Arbor Falls PD including, but not limited to, removing the previously shown clubhouse and pool, and providing detached storage units for residents of the proposed development. The request also includes design adjustments from Sections 29-5.1 and Appendix A of the UDC. The property is zoned PD (Planned Development) and is generally located north of Highway WW and south of Pergola Drive addressed as 5730 Pergola Drive.

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:

1. Approval of the design adjustments to Section 29-5.1(e)(3)(F) relating to cul-de-sac length; 29-5.1(c)(3)(K)(ii) related to street length without an intersection break; and 29-5.1(c)(4) and Appendix A of the UDC to allow private street on common lots varying from public street width/ROW design/dedication standards.

2. Approval of the requested major PD amendment to be known as "Arbor Falls PD No. 4" with the associated design exceptions as stated on the PD Plan.

MS. LOE: Thank you, Planner Smith. Before we move on to questions of Commissioners, I would like to ask any Commissioner who has had any ex parte prior to

this meeting related to this case to please disclose that now so all Commissioners have the same information to consider on behalf of the case in front of us. Seeing none. Are there any questions for staff? Commissioner Rushing?

MS. RUSHING: You said in your report that the garages are going to be similar to the buildings that are off of Ranger; is that correct?

MS. SMITH: Yes.

MS. RUSHING: Okay. And so I looked at those buildings and they're not really garages, they're storage areas in that there is no space really to drive in and park a car because the distance between the two buildings is insufficient. So if that's planned for this section, who is -- who -- what entity owns those storage units?

MS. SMITH: So they're going to be managed -- managed and they're going to be for rent. I -- some of these questions, I might have you ask the applicant, if that's okay. So I -- I do know what you're talking about, that they're -- they're in a different configuration off of Ranger Driver, though I can pull up -- the orientation is a little bit different here.

MS. RUSHING: But there's only going to be ten feet between the two buildings. Correct?

MS. SMITH: It's a -- it's a minimum of ten feet, so it can vary a little bit. You'll see on the design adjustment worksheets that they have the maximum square footage that can be allocated to the garage or storage units. And so there's a little wiggle room on -- on the actual layout of them.

MS. RUSHING: I may have an additional question once I've asked --

MS. SMITH: Absolutely.

MS. RUSHING: Okay.

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

PUBLIC HEARING OPENED

MS. LOE: If you can give your name and address for the public record.

MR. GEBHARDT: Thank you. My name is Jay Gebhardt here with A Civil Group here in Columbia, and I'm here to answer your questions. I believe Rachel has done a six-page report that's very, very thorough. The question you had, Ms. Rushing, we're proposing these garages, and there's 30 feet of pavement between one garage and the next. So there's plenty of room to maneuver in there. And you may ask why we're doing these garages, and -- and in Arbor Falls in the north part in particular, they have a covenant that says you have to park in your garage. And there's some people that have their garages full of stuff, you know, or have a golf cart or some other -- you know, boat, motorcycles, whatever, and so they park in their driveway. And -- and we're trying to

provide a place for people to have those things without having to park in their driveways and violate the covenants and restrictions. So that -- that's the -- and it will be owned by an entity that will be leasing them to the residents of Arbor Falls, not just this 34 lots, but also the people that are already in the villas.

MS. RUSHING: So it's -- I mean, my concern is that that -- it's beginning to sound like a commercial enterprise. If you have a separate entity that owns them, is there anything that limits them to renting them to just those 34 -- is it 34 lots? Can they rent them to other people out there?

MR. GEBHARDT: I'm not sure what happens on the ones on Ranger. I'm not sure. But I'm pretty sure they're owned by a separate entity. I don't know if they have that restriction to rent just to Arbor Falls, but my client has said that his intent and -- and drive for this is to provide storage for his rental property that he has on the north side for residents that live there and -- and have a need for this. And it's -- it's a real need when you these -- I don't know if you noticed, but builders have been building these garages very, very small. I mean, they're 19 by 19 now, or 20 by 20, just big enough to get two sedans in, basically, and no extra room even for bikes and mowers and things like that. So it's -- it's providing a -- a service or an amenity to -- to the residents.

MS. RUSHING: But it's not owned by a homeowners' association?

MR. GEBHARDT: No.

MS. LOE: Any additional questions? Commissioner MacMann?

MR. MACMANN: Thank you, Madam Chair. Mr. Gebhardt, I'm going to follow up on that, but I'll do that in just moment. I'm going to go to these private streets. Which entity will be maintaining these private streets?

MR. GEBHARDT: Homeowners' Association.

MR. MACMANN: The HOA. Will they also be addressing stormwater and things of that nature, or how is that going to be handled as things go forward?

MR. GEBHARDT: We are complying with the City of Columbia stormwater regulations.

MR. MACMANN: So the City can get on these streets, no problem, and maintain that stormwater?

MR. GEBHARDT: Yes.

MR. MACMANN: Okay.

MR. GEBHARDT: There will be easements for that.

MR. MACMANN: All right. I'm going drop back to Ms. Rushing's point, just to make that clear, and I think I heard you correctly. The developer said he wants to address the needs of these folks and some apartments he owns to the north with this storage unit?

MR. GEBHARDT: Arbor Falls really has three parts. Right? And -- and he wants to be able to serve all three parts of Arbor Falls, but not people north in Old Hawthorne, just -- just Arbor Falls itself.

MR. MACMANN: Well, I -- to Commissioner Rushing's point, it sounds like a commercial enterprise in a residential neighborhood.

MR. GEBHARDT: And it's desired by the residents and it is -- it is --

MR. MACMANN: Well, I understand that. You understand --

MR. GEBHARDT: -- PD zoning where --

MR. MACMANN: You appreciate -- do you appreciate the code conflict there, a commercial enterprise in a residential district?

MR. GEBHARDT: No, because it's a PD. I think we can propose that. And, you know, this is something the UDC doesn't address, and it's --

MR. MACMANN: No, it does not, and that's why I'm falling back in other areas, because it's not covered in the PD section of the Code, it's covered in other portions. Well, I'm going to talk about this for a minute. Planner Smith, could we -- if I may, Madam Chair? Could we return to the -- the current PD that shows the access to these storage units will be from where? Inside the new PD?

MS. SMITH: Uh-huh.

MR. GEBHARDT: Yes.

MR. MACMANN: No -- nothing off WW?

MR. GEBHARDT: No. It's limited access right-of-way. We couldn't get a driveway. There's also a strip of land there that is owned by the original developer that's -- that's not part of this between us and the right-of-way, so we don't the land that abuts WW.

MR. MACMANN: Okay. All right. So this will solely be through this private development. Okay. That's all the questions I have for the moment, Madam Chair. Thank you very much.

MS. LOE: Thank you. And just to confirm, looking at the statement of intent, it does identify detached garages on a separate parcel to be owned by the management company, not to exceed 10,500 square feet. So I would -- I would -- I mean, I agree, it's a PD plan and it is identified as a use within that statement of intent. Mr. MacMann?

MR. MACMANN: May I redirect, please? Thank you. If I heard you correctly, you said to be owned or run by the management company. What is the management company? The management company of what?

MS. LOE: A -- garages will be owned by a management company and leased to residents.

MS. RUSHING: So it's separately owned. It's not owned by the homeowners'

association and managed by a management company. It's owned by a separate company.

MR. GEBHARDT: It is not owned by the HOA, but also it is subject to the HOA's covenants and restrictions and enforcement of those, so --

MS. LOE: Commissioner Burns?

MS. BURNS: Thank you. So I'm confused. Are these garages or are they storage units?

MR. GEBHARDT: Probably look more like -- well, did you have an opportunity to see the ones on Ranger?

MS. BURNS: I did not.

MR. GEBHARDT: Okay. They're long multiple garages, maybe 12 or 15 garages in a row, all in one building, with separate walls that separate the interior space, and they're 20 by 20, something like that, with a garage. And you can lease that portion of it and you don't have --

MS. RUSHING: Those are definitely storage units.

MR. GEBHARDT: Right.

MS. RUSHING: Right. They're not --

MR. GEBHARDT: To store vehicles --

MS. RUSHING: They can't be used --

MR. GEBHARDT: To store vehicles or to store --

MS. RUSHING: No.

MR. GEBHARDT: -- whatever they have, you know.

MS. RUSHING: You would be hard pressed to turn a car into one of those garages on Ranger.

MR. GEBHARDT: On Ranger, but these -- I don't know what the distance is on Ranger. I think it's about 20 feet, like you said, but mine is 30.

MS. RUSHING: It looks more like a car length.

MR. GEBHARDT: Okay. Well, this is 30 feet wide, so it's three car lengths wide to -
- to be able --

MS. RUSHING: So these would be more garage-like?

MR. GEBHARDT: Yeah. You could get a -- now, if you drive a big truck or something, you might have to, you know, stop and do a three-point turn, but you -- you'll be able to get in them.

MS. LOE: Any additional questions for Mr. Gebhardt? Ms. Placier?

MS. PLACIER: If everybody has addressed questions about the garages, I wondered what are the intentions for the -- for want of a better term -- the blob at the end of Euliss?

And is it intended to be -- to facilitate turning around at the end, or I mean --

MR. GEBHARDT: To me, that is the new code compliant cul-de-sac, because it meets the IFC's requirements, and it meets the City of Columbia's Appendix A requirements.

MS. PLACIER: Okay.

MR. GEBHARDT: So you can do a T-turn around, a fire truck can in that, and the cars can turn around in the circle, so that -- that's the blob. But, yeah, that's -- we've had one before that. I like that name, by the way.

MS. SMITH: We've been trying to come up with a good name.

MS. PLACIER: We'll put it in the code.

MS. SMITH: Yeah.

MR. GEBHARDT: But -- but the -- the building at that end is a well house for -- all these irrigated, and we've talked -- or I've mentioned and -- and the developer is open to helping the existing to the east with irrigation and -- and getting on a well instead of public water.

MS. LOE: Any additional questions for Mr. Gebhardt?

MR. ZENNER: Ms. Loe, if I may?

MS. LOE: Mr. Zenner?

MR. ZENNER: If I may just for the purposes of clarity, I think that we make sure that we close off the comment that Mr. MacMann had made. The UDC does permit within a planned zoning district for it to list any use within the permitted use table within a statement of intent. So Mr. Gebhardt's statement the UDC does permit him to place the garages within the PUD statement of intent is correct. The reason for the design exception is because of the nature of that type of garage. So to ensure that it is not -- while it will appear in practice to be a storage structure, which it is, and typically you would see those types of structures associated with a principal dwelling, we are having to have the special exception addressed. That is why the special exception has been presented. So that -- what the Code doesn't speak to directly, it does speak to indirectly by allowing an applicant to choose any use within the permitted use table and run through this process and the Council process to have it authorized. Secondly, I want to address the issue that Ms. Rushing has brought up as it relates to the driveway and the separation between the garages that are in this subject site. The spacing that Mr. Gebhardt has indicated is a 30-foot aisle width between garage fronts. Standard parking lot drive aisle is a 24-foot-wide drive aisle for 90-degree parking. So this particular spacing between the two garage fronts is actually six feet greater than what we would see in a standard commercial parking lot. So the ability to be able to move a vehicle in

and out of the garages is something that we, from a staff perspective, would see as a possibility. How the garages are used, either for vehicle storage, or for actual household goods storage, is really not we were looking at. That was part of the concept. It was, as Mr. Gebhardt pointed out, something that was desired by the developer and by his customers and clients, and therefore, should this Commission decide that it would like to approve this use as a freestanding garage without a principal structure, it would be permitted, and it would be legal because of the process that we're going through here, and dimensionally it will be functional. I can't speak to the fact of the garages that are off of Ranger. It existed before the current UDC did, and therefore, the level of thought and how they would be accessible may not have been as greatly considered as this has been.

MS. RUSHING: Okay. It's just that the staff report directed us to look at the ones on Ranger as an example of what was planned --

MS. SMITH: Oh. I meant of height -- height and form.

MR. ZENNER: Architecture.

MS. SMITH: Yeah. I apologize.

MS. RUSHING: Yeah. But once you said 30 feet --

MS. SMITH: Yeah. I apologize for that. That's my mistake. I should have been more specific.

MS. RUSHING: -- because the ones on Ranger are definitely not garages. They're storage units.

MR. ZENNER: Thank you.

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

MR. GEBHARDT: Thank you.

MS. LOE: Thank you, Mr. Gebhardt. Any additional public comments on this case?

MS. TOMPKINS: Mary Kroening Tompkins. Hi, Tootie. 5714 Euliss Drive. I am here as the secretary and on the board for the HOA for -- for Arbor Falls, as well as the president, Rod Tanner, is here, as well. And since there was controversy with the original plan that was presented in June, we just wanted to be here to recommend and really emphasize that we are in favor of this plan. Jay Gebhardt's A Civil Group has worked really closely with us in the last couple of months, in fact, tabling the July meeting to August to work with us to come up with a new plan that we feel very comfortable with. We definitely endorse it. We are definitely excited about the street extensions for bikers and walkers in our neighborhood. We've got a couple grannies, as they call themselves, that love to three-wheel bike, and this just gives them more are and more street to three-wheel bike, as well. So we are very much in favor of it. Just to kind of clarify, you

know, since Jay is not as familiar with the storage units on Ranger even -- and we all are since they're all a part of us. They were developed by the original developer who developed our Arbor Falls and built our villas. He still owns them, and they are part of our HOA. We are very much involved with him in maintaining how those are handled, how those are rented, what happens with them. So the ones on Ranger, they are a part of the HOA. He is a part, he is a member of the HOA, as well, so if that helps clarify anything, so --

MS. RUSHING: And that helps clarify things for me. Thank you.

MS. TOMPKINS: Yeah.

MS. LOE: Thank you. Any questions for this -- Commissioner Geuea Jones?

MS. GEUEA JONES: Hi. Thank you for coming.

MS. TOMPKINS: Uh-huh.

MS. GEUEA JONES: So as part of the HOA, I assume there are restrictions on for-profit businesses being operated within that neighborhood or --

MS. TOMPKINS: Uh-huh. Yes.

MS. GEUEA JONES: And this would be part of that HOA, as well?

MS. TOMPKINS: I don't -- we haven't actually -- no. I think they'll be -- they're separate. We're -- each of the Arbor Falls, there's three of us. We all have our separate HOAs, so we're the ones just Euliss, Talco, and Ranger. And so this will be its own --

MS. GEUEA JONES: And so your HOA wouldn't cover the new?

MS. TOMPKINS: Yeah. Yeah.

MS. GEUEA JONES: Thank you.

MS. TOMPKINS: And then across Pergola, Bower, those are separate HOA.

MS. GEUEA JONES: Thank you.

MS. LOE: Commissioner MacMann?

MR. MACMANN: Thank you, Madam Chair. I think you've just answered my question.

MS. TOMPKINS: Okay.

MR. MACMANN: This may be a question again for staff, because I thought I heard from Mr. Gebhardt or during that interview period, these storage units will not be owned by the HOA, but yours are directed by the HOA; is that what you said?

MS. TOMPKINS: They're part of our Arbor Falls -- all of the three Arbor Falls, now the fourth, we all have our own HOAs, and the ones on Ranger are in our -- in our HOA.

MR. MACMANN: So you can direct how it's used and prices and stuff like that?

MR. TOMPKINS: Uh-huh. Yeah. And the owner of those, he comes to our HOA meetings. He's very involved with us.

MR. MACMANN: Okay. I'm getting the -- and you probably don't know this. I'm getting the sense that this is -- there will be a different ownership or operational setup on these ones in the new PD?

MS. TOMPKINS: Yes.

MR. MACMANN: All right. Thank you very much. Thank you, Madam Chair.

MS. LOE: Thank you. Any additional questions for Ms. Tompkins? I see none. Thank you.

MS. TOMPKINS: Okay. Thank you.

MS. LOE: Any additional speakers on this?

DR. BLAIR: Jerry Blair, 5712 Euliss. And really my comment is more of a question. The maintenance of these streets, which I know falls to the HOA, have been an issue. Talco, particularly is in bad shape. So my questions is, is Talco even going to be prepared and maintained before this new construction, and are the streets going to be better maintained thereafter? A question for the developer.

MS. LOE: So -- right. And I think this was addressed earlier in that these are being maintained as private streets, so I'm not sure we can answer that question.

Commissioner MacMann?

MR. MACMANN: I would like to comment on that question, and Planner Smith can speak to this. Over time, and this is always a concern of mine, these private streets end up being yours and ours. And I believe that might have been what Planner Smith said that these streets don't currently meet standards. And we've had this problem before with, like, streets that are 30, 40, 50 years old. And it is somewhat of an issue for me. It depends on the HOA, what the fees are, how much they're on top of it, and that's out of control. That's a private agreement between the homeowners in the HOA and the developer, and so we can't address that, per se. Staff might be able to give you more information than what we've just given you, but that is a private matter.

DR. BLAIR: Right. And a great deal of funds went into repairing the large traffic circle by the condominium there coming off Pergola, but then the rest of the street, from Talco from there down to Euliss is in horrible shape, and it's only going to get worse with more construction and more traffic, so it's something that has to be reasonably addressed by the developer, I would think. It's should have already been addressed by the owners of that side of the property.

MS. LOE: Commissioner Burns?

MS. BURNS: Dr. Blair, do you know if there has been any communication with the HOA or known street maintenance providers to try to resolve the situation?

DR. BLAIR: To the best of my knowledge, it would have been through Perry

Luetkemeyer, who is kind of a front person for the previous owners of most of the duplexes there in that part of Arbor Falls and did manage to get the involved parties together to repair the big traffic circle and do some repairs. But that street, since it's kind of on the fringe, it's been kind of ignored and left alone, but it's about to get very involved.

MS. BURNS: Thank you.

DR. BLAIR: That's the best of my knowledge. Thank you.

MS. LOE: Thank you. Any additional comments on this case? Seeing none, we'll close public comment.

PUBLIC COMMENT CLOSED

MS. LOE: Commission comment? Commissioner MacMann?

MR. MACMANN: I have a thought from other Commissioners. We've brought this up and we've dealt with it in depth. We'll have the right -- it sounds as if this storage/garage, you know, whatever we're going to call it, is going to be privately managed, not as the one over on Ranger is, and that's something that we can grant. Thank you for that clarification, Mr. Zenner. I don't see necessarily a problem with it in this aspect, but we may be setting a precedent for other commercial enterprises going forward, and we just need to be cognizant of that, and the effects. That's why I asked the question about where is the access. And if this is leased to individuals who are not in that immediate neighborhood, is -- do we serve as the representatives of the future homeowners for that traffic and those type of things. So I'm just going to bring those up with issues to -- for us to ponder as we go forward.

MS. LOE: Commissioner Geuea Jones?

MS. GEUEA JONES: I am a little -- I'm a little taken back, honestly, because the statement of intent talks about leasing them to residents, and then we hear in testimony that, no, this is privately managed, and there will not be any restriction in anything that is a public document on whether or not it is limited to residents, not even just of this section of Arbor Falls, but of Arbor Falls generally, which may be okay. So it -- it sounds to me as if while it is true that we can do mixed-use PD plans, this was brought forward in a way that was not transparent that that was a potential use, and so instead we were told this is an amenity when, in fact, it's not an amenity. It is a private enterprise that is now owned by the HOA or managed by the HOA that is within a fairly closed off residential area. That gives me a lot of pause and -- and I legitimately feel like maybe not funny business, but certainly there are multiple -- multiple intents here that were perhaps not fully brought forward to either the staff or to us until we got to the public testimony part. And yeah. I'm -- it's giving me a lot more pause than I had coming in here tonight. I'm going to be honest.

MS. LOE: Commissioner Burns?

MS. BURNS: I'm kind of going in the opposite direction. I had concerns because of the homeowner or neighbor concerns that have since been withdrawn. So it appears to me that the homeowners' association has resolved within itself what's being presented tonight, and we don't have any dissent for what's being presented as far as the housing and the garage/storage unit. So I feel better about the project moving forward and I plan to support it.

MS. LOE: Commissioner Placier?

MS. PLACIER: Yes. On the other hand, Commissioner Burns, if it turned out that some of these garage units were being rented to someone outside of Arbor Falls, did that give you some pause about that? I mean, you're trusting that that would be the case.

MS. LOE: Commissioner Burns?

MS. BURNS: I think we have to place trust in our homeowners' associations to resolve internal problems where the homeowners are living with each other and dealing with each other on a daily basis. And that if we want our Code to work and our developments to work, we have to rely on individuals coming together and resolving and talking about the issues that they have and resolving them. I'm not sure if that's -- at this point, for us to get involved with or to look to the future with a concern that is not happening currently.

MS. LOE: Commissioner Geuea Jones?

MS. GEUEA JONES: I would also point out that the HOAs that have looked at this and withdrawn their opposition are not the HOA that is going to be covering the housing being built. And if they were, I would agree with you, but this will be a brand-new HOA that doesn't exist yet with a brand-new set of bylaws that doesn't exist yet. It's -- it's not -- it's not a situation where we're expanding a homeowners' association to cover it. I would feel fine if that's what -- if that were the case. This -- this is, for all intents and purposes at this point, unmanaged, so that's -- I just wanted to clarify because I thought the same thing. Oh, the HOA covers it, not a big deal. And then we find out, no, that HOA won't cover this section.

MS. LOE: So the statement of intent, I mean, it goes beyond saying that they'll be at least two residents. It says the freestanding garages are an amenity to the residents allowing them to have storage near their homes. They're listed as an amenity to the PD plan. I'm not sure how much legal bearing the statement of intent has on the use, but it's -- it's beyond -- I mean, it may not be managed by the HOA, but it's pretty clear on what the intent of use is. Additional comments? Commissioner MacMann?

MR. MACMANN: I have a question for staff, if I may. Planner Smith, how many motions when we get there, will you want? Four?

MS. SMITH: Yes, please.

MR. MACMANN: One overall, and one for each exception and/or adjustment; is that correct?

MS. SMITH: I would like to do the design adjustments individually, and then approval of the plan inclusive of the SOI, the plan, and the associated design exceptions.

MR. MACMANN: All right. With that in mind, when we get to that point, would you put those things up on the big screen? Thank you very much.

MS. LOE: Were you setting us up there, Commissioner MacMann?

MR. MACMANN: Well, I have another question.

MS. LOE: Oh, okay.

MR. MACMANN: And -- and I'm getting of this to get it on the record for Council, because this is going to become arcane when they have to deal with this. And legal is not here; is that correct? Oh, there she is.

MS. THOMPSON: Yes.

MR. MACMANN: Ms. Thompson, I'm sorry. Can you help us? Or help us, if you can. Moving forward, the statement of intent implies that these storage units, garages, as they're stated, will be an amenity. The agent just told us that they're going to be run privately as a commercial enterprise. What rule is here for this HOA coming forward? You know, we're getting into the weeds of property law arcana. I understand that. Can you help? Do you have any idea which will rule in this situation?

MS. THOMPSON: I -- I can't tell you with any certainty. I mean, whether if one of these storage units is leased to somebody outside the Arbor Falls, if it becomes then not an amenity overall to the users. I mean, it just -- it's a matter of interpretation at that point.

MR. MACMANN: I'm trying to -- and to Ms. Burns' point, and I will second Ms. Geuea -- Commissioner Geuea Jones' point, that if this was an existing HOA, I have no problem with this, and they could -- they could control it. But we're -- my point previously about us looking after the future HOA is if they're in box when they get there, there's nothing we'll be able to do because that's a private agreement. That's why I asked if we knew which ruled. Okay. Thank you very much, Ms. Thompson.

MS. THOMPSON: You're welcome.

MR. MACMANN: If there are no more questions and concerns, I would like to make a motion beginning with the design adjustments. In the matter of 140-2021, design adjustment to the cul-de-sac length, do you want one for each -- for the street also?

MS. SMITH: If there's consensus, I think you could actually do the design adjustments in one motion.

MR. MACMANN: That's what I'm going to do. Thank you.

MS. SMITH: Yeah. If there's not -- and this will come up later in the meeting. I have some -- some greater guidance on a more complicated --

MR. MACMANN: All right. I don't think this is going to be much of a -- in the matter of extending the cul-de-sac by five feet, in the matter of extending the road by 20 feet, as it applies to 1(c)(4), and Appendix A, I move to approve.

MR. STANTON: Second.

MS. LOE: We have a second by Commissioner Stanton. Did that capture all the design adjustments?

MR. ZENNER: Yes, it did.

MS. LOE: All right. Sorry for even wondering. We have a motion on the floor. Any discussion on that motion? Seeing none. Commissioner Burns, may we have a roll call, please.

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.

MR. MACMANN: In the matter of Case 140-2021, am I going straight on to number two, or do you want me to do that --

MR. ZENNER: That's -- that's the second motion that needs to be made.

MR. MACMANN: Okay. And that's the garages?

MR. ZENNER: That's inclusive, the PD plan, the statement of intent, and all design exceptions as shown on the PD plan.

MR. MACMANN: Thank you, Mr. Zenner. For our recorder, reflecting on what Mr. Zenner said, in the matter of Case 140-2021, approval of Arbor Falls PD -- No. 4 PD Plan and SOI, and associated design exceptions, as stated on the PD plan, I move to approve.

MR. STANTON: Second.

MS. LOE: Seconded by Commissioner Stanton. We have a motion on the floor. Any discussion on this motion? Mr. MacMann?

MR. MACMANN: I made that motion in the affirmative, as we should, but I don't -- I think we need more guidance, and I'm going to vote no on this.

MS. LOE: Any other discussion? Seeing none. Commissioner Burns, may we have roll call, please?

MS. BURNS: Yes.

Roll Call Vote (Voting "yes" is to recommend approval.) Voting Yes: Ms. Loe,

Mr. Stanton, Ms. Burns. Voting No: Ms. Rushing, Mr. MacMann, Ms. Geuea Jones, Ms. Placier. Ms. Kimbell. Motion fails 5-3.

MS. BURNS: Five to four --

MR. ZENNER: Three.

MS. BURNS: Five to three; motion is defeated.

MR. MACMANN: Planner Smith, did you want one more -- that covers everything that you need?

MS. SMITH: Yes, it does. Thank you.

MR. MACMANN: Thank you very much.

MS. LOE: All right.

MR. ZENNER: For the purposes of the audience, as well as those that are watching in TV land, due to the denial that has been received for the PD plan with the design exceptions, this item will show up under old business on the City's Council agenda, tentatively to be introduced on September 20th.

MS. LOE: Thank you, Mr. Zenner.

Motion 1: In the matter of 140-2021 design adjustment, extending the cul-de-sac by five feet and extending the road by 20 feet, as it applies to 1(c)(4), and Appendix A, move to approve. Voting YES: Rushing, MacMann, Geuea Jones, Placier, Kimbell, Loe, Stanton, Burns. Voting NO: None. Motion passes (8-0)

Motion 2: In the matter of Case 140-2021, approval of Arbor Falls PD No. 4 PD Plan and SOI, and associated design exceptions, as stated on the PD plan, move to approve. Voting YES: Loe, Stanton, Burns. Voting NO: Rushing, MacMann, Geuea Jones, Placier, Kimbell. Motion fails (5-3)

Case # 152-2021

A request by AnnElise Hatjakes (owner) for a Conditional Use Permit to construct an Accessory Dwelling Unit (ADU). This subject site is located approximately 0.3-miles west of the intersection of N Garth Avenue and Parkade Boulevard. The property is zoned R-1 (Residential single-family) and addressed 504 Parkade Boulevard.

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

Staff report was given by Mr. Brad Kelley of the Planning and Development Department. Staff recommends approval of the requested conditional use permit to allow an ADU on the property addressed as 504 Parkade Boulevard.

MS. LOE: Thank you, Planner Kelley. Before we move on to questions of 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 same information to consider on behalf of the case in front of us. Seeing none. Any questions for staff? Commissioner Burns?

MS. BURNS: Thank you. Thank you, Mr. Kelley, for talking about the rental or

occupancy of either dwelling on the property, because I know we did have a question about that, the one in the Old Southwest that we discussed. So it doesn't have to be owner occupied, but my question is, can both be rental units? Is that what you're saying to us? Both units on the R-1 zoned parcel can be rental units?

MR. KELLEY: Yes. If you don't condition it as such, then, yes, both could be rented out. Talking to the Office of Neighborhood Services, technically, it's going to be a follow-up question about occupancy. It can be rented out to three unrelated persons, each dwelling unit. That's consistent with R-1.

MS. BURNS: Right. But you'll have two dwelling units --

MR. KELLEY: Uh-huh.

MS. BURNS: -- so you could have -- it's -- well, okay. Thank you very much.

MS. LOE: Commissioner Rushing?

MS. RUSHING: I have two questions, and the first is on the other side of that coin, you are saying that we could condition this ADU on one of the units being owner occupied?

MR. KELLEY: You've previously done so, I believe, on the last case we heard last year on Glenwood Avenue, that was, generally speaking, the condition that this Commission applied.

MS. RUSHING: And then the other question or actually, I guess, it's two questions, deals with the parking -- one deals with parking. So you are saying the plans appear to be to double the width of that driveway?

MR. KELLEY: No. My interpretation from the review is that they have sufficient parking for this. There's two parking spaces provided by the driveway, tandem parking there, and then there is a parking spot off to the side of that, as well. An existing --

MS. RUSHING: All of -- all of that requires stacking. I mean, only one car can go up and down that driveway at a time?

MR. KELLEY: Right. And we would review it further when we get to the building permit stage as to whether we would consider that or not, but they do have to provide one parking space for the -- for the ADU. Depending on where it is, you're correct, how it would stack against that driveway.

MS. RUSHING: So they would be required to have up above two paved parking spaces?

MR. KELLEY: Can you repeat that question, please?

MS. RUSHING: Excuse me?

MR. KELLEY: Could you repeat that question, please?

MS. RUSHING: So you're saying that they're providing the additional parking, but

you're saying that's just in that single-lane driveway?

MR. KELLEY: Depending on where that is specifically. Again, we'd look at it more at the building permit, but you can provide two spaces via tandem stacking, and depending on where the other space is on the side of that driveway, that could count as parking already existing.

MS. RUSHING: Okay. And would that need to be paved if it is not currently paved?

MR. KELLEY: If we're able to consider as existing parking, they would not need to pave that.

MS. RUSHING: Okay.

MR. KELLEY: If we couldn't consider it as existing parking and they had to add a space, then a new parking space would have to be paved, yes.

MS. RUSHING: And is there any requirement for a sidewalk access to that new unit?

MR. KELLEY: No.

MS. LOE: Commissioner MacMann?

MR. MACMANN: Just to follow up on Commissioner Rushing's, and this may be a Mr. Zenner question, but Planner Kelley may be able to answer it, too. Can Mr. Simon's people condition the CO on the parking? (No audible response.) He can't? Interesting. Thank you very much.

MR. ZENNER: And either it -- it either will meet the parking requirements or it will not. And in order to be able to get the CO, it will have to meet the parking requirements.

MR. MACMANN: Isn't that the question I asked, or did I ask something else?

MR. ZENNER: Well, conditioning, when I -- when I interpret condition, I -- I -- that, to me, is conditioning it independently of what the Code requires.

MR. MACMANN: No. No. No. No. It's -- no. That's not what -- I meant what you answered. Thank you very much.

MR. ZENNER: You're welcome. I -- for the purposes of clarity also, I think in this particular instance, the Code does not -- the Code makes it very clear in one- and two-family zoning, R-1, and R-2, we will allow required parking to be handled in a tandem situation. The Code is silent in relationship to how, if you have an ADU in the R-1 zoning district, you would handle that. So if, in fact, you have tandem parking to support your principal structure today, and you have the ability to have a wing spot that would still support your principal structure, you would still be able to have the ADU parking space, which is a requirement of the ADU conditional use or standards in tandem. So the end result is is you have to have three compliant parking spaces on the property. Now how you jockey cars in and out of a driveway that may be a single-lane drive, that's -- that's a

property owner issue. We're looking at how much paving is there and do they meet the general requirement for parking. That may be a concern of the Commission's that you would like to address as a part of the conditional use permit.

MS. LOE: Any additional questions for staff? Mr. MacMann, you still have the floor. Okay. You have the floor.

MR. MACMANN: I just -- just -- thank you. Just to -- just to follow up on that. For you all and for us, given our and the community's desire to build ADUs, and the UDC's silence on these issues, and this -- and the parking always being an intensely sensitive issue, I believe we should address this. Not here, not now, I don't have a problem with this necessarily, but going into a regulatory void where we have protections in other housing styles is problematic.

MS. LOE: I would like to follow up on Commissioner Burns' comment or question about units, in that I believe the -- with all due respect, Planner Kelley, that the report is losing sight of the fact that this is an accessory use, and that it actually doesn't even fall under the classification of dwelling unit in our permitted use table. It falls under accessory use. An accessory is a subordinate or incidental use to the primary use, so I do think it's worth clarifying that we are not approving an R-2 zone, which some of the letters obviously think is what is being requested. And I also think it's worth clarifying in our comments that we're not creating a two-family dwelling unit. This is an accessory dwelling unit. And I do think that different qualifications apply, and I think this Commission has determined that given it's an accessory dwelling unit, that the verbiage I was coming up with was only the permanent resident may offer one unit for lease independently from the second unit. And that permanent resident may be the owner occupant, or a long-term tenant. So we're not saying you can't -- but the owner can't lease out the units separately. I mean, an absentee owner cannot treat this as a two-family dwelling because it's not. We're not -- that's not what we're creating here.

MR. ZENNER: Ms. Loe?

MS. LOE: Yes.

MR. ZENNER: If I may ask. I completely understand why the Commission has gone down the path that it has previously gone down. However, if a long-term tenant --

MS. LOE: Uh-huh.

MR. ZENNER: -- could have leased one of the structures with the owner not present, how is that any different than having two -- I mean, you have two rented properties at that point. You have a long-term lease, and you have an accessory subordinate use that is also being rented. It's being -- your intention is is that subordinate structure is being rented by the long-term tenant. Correct?

MS. LOE: Correct. Correct. The owner occupied -- it's not necessarily owner, but the permanent resident is the landlord.

MR. ZENNER: Is the -- is the rental agent --

MS. LOE: Correct.

MR. ZENNER: -- of the accessory dwelling unit?

MS. LOE: And I'm going back to that because that is how -- forgive me -- but building code would consider it, and we start getting on into -- well, resident is building code, so -- and we're starting to get into change of use and some issues that we're going to come up against in some of our other discussions.

MR. ZENNER: And whatever decision this body makes this evening, the application of how the accessory dwelling unit, should it be recommended to be approved, on either principal structure that is on the property today, or the accessory dwelling unit that is proposed to be constructed, how the -- how the occupancy of that particular structure is handled is critical in being described without any misunderstanding, because when this becomes a rental property and registered within the rental system, if a property owner, and I -- we have not reviewed this at great depth. But if a property owner, the owner of record, has a long-term tenant, unless that long-term tenant is authorized to obtain the occupancy permit at the COC for that ADU, which I would assume would be possibly not desired by the property owner, you're -- the complication associated with ensuring that we enforce the ability to ensure that both units are not being rented becomes more challenging; whereas, if this was a principally owned and occupied structure and is intended to be that way, and they were looking at utilizing the ADU as a supplement to their income or for a family member, you likely wouldn't have this problem. But if you are entering into two -- an absentee owner situation, and you're requiring that the long-term tenant of the principal structure be the one responsible for registering the ADU, I'm not quite sure our rental system is set up to deal with that scenario.

MS. LOE: Well, right. And this scenario was really brought up by Commissioner Toohey, who, because I believe in the last case, it was an owner who -- or he was postulating what if they did want to rent it long term, wouldn't their tenant have the opportunity to rent the ADU, and if we are allowing that. And again it gets back -- in building code anyway, it's that you have a permanent resident that's someone who is familiar with the property, they are allowed certain privileges that you do not have with an absentee loaner. I agree.

MR. ZENNER: I thank you for allowing me just to express my concern as it relates to how you condition the ADU as it relates to the practical application of our rental conservation program.

MS. LOE: We can stick with owner occupied. Commissioner MacMann?

MR. MACMANN: I think we should stick with owner occupied, and I just now thought of a response for Mr. Toohey, and it's a valid point. That could be done with, referring back to her statement -- the Chair's statement. If the owner wants -- wishes to engage in something like that, the owner is more than -- you know, the owner can do that. They can -- the owner can assign any agent to manage their property, and that's a private agreement. But I think as soon as we step into that void, I think we're problematic.

MS. LOE: All right.

MR. MACMANN: I think occupant -- owner -- excuse me -- would be a better term. Sorry.

MS. LOE: Commissioner Geuea Jones?

MS. GEUEA JONES: So if we say this is a -- if we -- I guess my question is if we say you cannot lease -- you cannot have two leases on this R-1 property is essentially what we're saying. Would that stop the lessee from subletting because I think under our Code, as long as you give property notice and have permission from the lessor, you can do that. And so I guess I'm wondering, like, if we -- so, for example, if I want to let someone live in my spare bedroom of a rental property, as long as I've got all the correct permissions, I can do that, because the property is one unit, as long as I'm not breaking occupancy rules and all of that. I don't want us to get into a situation where just because there's an ADU on the property now that lessee doesn't have the same rights as other lessees. Does that make sense? I feel like I am speaking word salad, but -- I don't want us to use the word owner, and then end up in a situation where someone is renting the house and they don't have the ability to sublet a portion of the property.

MS. LOE: Agreed. That's why I wasn't using that word.

MS. GEUEA JONES: Yeah. Yeah. Yeah.

MS. LOE: Commissioner Stanton?

MR. STANTON: You talked at length about the ADU. It's finally coming to fruition. We've got the rules in place. We want to support this. This is what the people wanted. I'm going to go back to the spirit of why we even started the ADU discussion, which was to create a supplemental income for the primary homeowner and to increase the rental housing stock, basically, to give the little guy an opportunity to extend the use of his property. That's the essence, the spirit of why we started this. So I'm just going to say that, and that pretty much dictates what -- so I am going to say this. Okay. So can we put the condition in our motion?

MR. MACMANN: That it's owner occupied?

MR. STANTON: Yes. And does the Commission, in general, do we all feel the

same that we still believe in the essence of the ADU, which is the owner, the primary homeowner is creating an additional rental property on his or her land?

MR. ZENNER: I think to -- to address the issue, and we're a little bit off topic, because we're talking Commission discussion at this point, and we haven't closed -- we haven't opened the public hearing up. But just to tie off the topic now that we've got on the dais amongst the Commission, Ms. Geuea Jones' concerns are probably, I would believe, valid, along with Ms. Loe's, as it relates to if you restricted just the owner and the owner does a long-term lease, restricting the ability of that long-term lessee to be able to be authorized by the owner to which he has a lease to sublet an extra room, the extra room may be in the ADU. So if, in fact, they do not exceed the occupancy limits of the R-1 zoning district, which is three unrelated individuals, that would be potentially possible, but I think the way that this is structured, an ADU is an accessory structure. It is detached from the primary residence, and I don't think we have adequately closed off the loop as to how we consider that structure in relationship to the primary dwelling. The primary dwelling is one thing, and it has to deal with particular building code requirements, and it meets occupancy limitations per the definition of family. So in the primary dwelling unit, you would not expect to have more than three unrelated individuals. The accessory dwelling unit, however, is an entirely independent living domicile that is familiar to the tenant that is living there. It's not a short-term rental. It is a primary living structure that they are familiar with. If what the intent here is is to ensure that you do not have two leased or two rented structures on an R-1 property registered in the rental conservation program with the City of Columbia, the requirement or the condition that you may want to consider is that the site is not permitted to have two rental certificates. That allows -- then there's no owner identification. It just basically says that when the rental property is registered, it is either registered as a single-family dwelling unit with an ADU, but it's all one certificate at that point. You don't have two separate certificates on that parcel. That may address the R-1 issue. However, it may not address all of the building code issues that Ms. Loe raises, and I wouldn't -- I don't want to -- I don't want to dive into that, but I want to make sure that we make sure that I think the principal issue is is you're concerned about a backdoor way of getting R-2 density in an R-1 neighborhood and, in essence, authorizing that through a -- through a conditional use permit. That's not what the intention of this was, as Mr. Stanton has pointed out. It was to allow for supplemental income and to increase affordable housing availability.

MS. LOE: Mr. Zenner, I considered that as a restriction, but my concern was if the owner would have a rental certificate to rent out the entire property, would that then restrict a long-term tenant from getting a certificate to rent out a second unit.

MR. ZENNER: The long-term -- I think the -- the rental certificate covers the entire property in that instance.

MS. LOE: Okay.

MR. ZENNER: The ADU plus the principal structure is what I -- I believe to be the way that would best address this. And if the -- if the -- if the property owner only wanted to put the ADU into rental status, that rental certificate would be just for the ADU.

MS. LOE: Commissioner MacMann?

MR. MACMANN: I would like to thank our audience for forbearing this delve down into the rabbit hole. This is an issue that we've been trying to get right for several years. Along those lines, Madam Chair, I would submit that perhaps we should open up our discussion at this time, and then finish it after these good folks have had their opportunity to say their piece.

MS. LOE: I agree. I think this was a good -- and one -- a few final comments, perhaps? Commissioner --

MS. GEUEA JONES: Very, very quick.

MS. LOE: -- Geuea Jones.

MS. GEUEA JONES: I would request our legal staff to work on the wording while we're doing public comment, so we get this right.

MS. LOE: Duly noted.

MS. GEUEA JONES: Thank you.

MS. LOE: Any additional final comments, observations before public comment? Commissioner Stanton?

MR. STANTON: So by giving the primary resident the rental certificate, basically what you're doing is allowing the ADU to be sublet. It stays under the same umbrella, and the primary dwelling is dominant address, and it allows you to sublease just like you were subleasing a room?

MR. ZENNER: In essence -- in essence, that is the way I would envision this.

MR. STANTON: Okay.

MR. ZENNER: As long as your occupancy limitation is not exceeded collectively.

MR. STANTON: Right. Okay. Thank you.

MS. LOE: And the lease permitted that.

MR. ZENNER: Correct.

MS. LOE: All right. We -- this is not our first ADU, as you may have gathered. So moving on to the ADU. We are going to open up the floor for public comment.

PUBLIC HEARING OPENED.

MS. LOE: If there is anyone that would like to make public comment on this case, please come forward.

MR. MACMANN: Madam Chair, point of order.

MS. LOE: Yes.

MR. MACMANN: You need to ask if we have any --

MS. GEUEA JONES: Ex parte.

MS. LOE: Oh. Oh. Oh, my goodness.

MR. MACMANN: Excuse me. I'm sorry.

MS. LOE: Did I not ask for ex parte, prior we did comments?

MR. ZENNER: No. We just dived right in.

MR. STANTON: Yeah. Dived right into it.

MS. LOE: Wow. All right. Someone must have ex parte on their mind. I would 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 same information to consider on behalf of the case in front of us. I see none. For public comment, if you can please give your name and address for the record. We do restrict you to three minutes. If you're speaking for a group, you will have six minutes. Thank you.

MS. HATJAKES: Can I take my mask off, so my glasses don't fog up?

MS. LOE: They're required right now.

MS. HATJAKES: Okay.

MS. RUSHING: Our computers have a little black box.

MS. LOE: It'll disappear eventually.

MS. RUSHING: It will?

MS. LOE: Yeah.

MS. RUSHING: Okay.

MS. HATJAKES: Hi. My name is AnnElise Hatjakes. I am the applicant.

MR. MACMANN: Could you speak into the microphone, please? You can -- there you go.

MS. HATJAKES: Okay. My name is AnnElise Hatjakes, and I am the applicant for this project. So I got really, really lost in everything you just talked about for the last ten minutes, so I am not here to talk about the ordinances or anything like that because it's -- it's not my area of expertise. All I'm here to do is to clarify my own motivations, who I am, where I'm coming from, especially with regard to tenancy. And the reason I'd like to focus on this more kind of personal aspect is that that's the bulk of my neighbors' concerns. They've had really bad luck with this rental property in the past because the entire thing was rented out to college students who were shooting air guns, and it

sounded like a nightmare. So I've got a lot of pictures that just show, like, the remodel and things like that, but I don't have anything about distances from the driveway to the ADU or anything like that, so I'm going to try to zoom through this as quickly as possible. So before we get to the plan, two of the three commenters talked about their concern that my husband does not currently live here. And since they made it of public record, I thought it would be a good idea to clarify. My husband and I have been married for eight years. He currently lives in Reno, Nevada, and I am currently a Ph.D. candidate in creative writing at Mizzou. I'm in my second year. And then in terms of motivation, I am a teaching assistant. I make \$29,000 a year before taxes, so initially when I proposed this idea in May, I had very romantic ideas. I had visions of a writing studio with lots of plants. That has since changed. I am looking for a modest additional income for when I am here so that, ultimately, my husband and I can have enough passive income so that he can join me here in Columbia. My program is five years. I have finished one year of that program, but I'm -- I'm financed for a half decade, so we're really trying to set down our roots here instead of going from apartment to apartment, and that's why we chose to buy instead of me taking advantage of student housing. And our credentials there, I just wanted to assure my neighbors, a few of them I -- I recognize here, that we're not trying to create a party pad. I've had one friend over really. She's here. She's another graduate student. So this is not what we're looking to do at all. And another concern was about property value, but as you talked about, this kind of smart density is not going to lead to a decline in property value. I'll leave that area of expertise to you. This is the big concern, and it seemed like that was really at the root of what you all were discussing, which is renters. So that concerns parking, lack of care for the property, disruptive behavior, and so I quoted some of the public commenters, and this is also from my private correspondence with a fellow neighbor. They don't want this to be a house for college students, you know, renting out. It's a four-bedroom, so the fear is that it's going to have four renters, and then an ADU with another two renters, and it's just going to be a nightmare in what is considered an R-1 family friendly neighborhood. The reason this is not a concern or should not be a concern is because of pride of ownership. So when we moved in, this is what the house looked like. It looked like it had been beat up for the last 11 years by renters. The kitchen, we had already started to do demo there, but the medicine cabinet, at one point, I opened it and it fell out of the wall. It was terrifying. You can see where they have --

MS. LOE: Ms. Hatjakes, you're at over four minutes, so if you have final comments.

MS. HATJAKES: Okay. Okay. Okay. I'll do them -- I'll do -- so, yeah. It was in bad shape, so I understand that. Here are some action shots. I did not prepare to --

(inaudible). Then here is it now, so we completely remodeled it, we invested \$25,000 in this home, so I just want to put to bed the concern that we are going to rent this out to, you know, whoever is going to show us a fistful of cash. So that -- I just wanted to provide my own perspective and where I'm coming from and thank you.

MS. LOE: Thank you. Are there any questions for this speaker? Commissioner MacMann?

MR. MACMANN: Thank you very much. Real quick, sorry you got the questions about your husband. I love -- I have friends who are Ph.D. candidates, and they are in different continents, so I get that totally. Just a real quick question. I hope you followed at least some of what we were saying up here.

MS. HATJAKES: Yeah.

MR. MACMANN: What very well could happen is we condition this that you all live in the front, and you can rent the back. That will be the upshot of that. Is that cool with you?

MS. HATJAKES: Yeah. I actually talked to Mr. Kelley about that today.

MR. MACMANN: So you -- you get that totally?

MS. HATJAKES: Yeah. Uh-huh.

MR. MACMANN: The last thing is a minor admonition. Please follow the regulations. You kind of tripped my trigger when you started the driveway.

MS. HATJAKES: Yeah. Well, the kind of irony there is, I was trying to alleviate my neighbors' concerns that there would not be adequate parking, and one of the comments was about the overhang from the berm on the lawn. And so I had made this appointment months ago with Samuels Excavation. The timing was not ideal, but I thought this was going to be another pro in my book of, like, look how I'm being proactive in alleviating their concerns, and it, in fact, did the opposite. So I apologize; it was honest mistake.

MR. MACMANN: Okay. I just -- you know, I just had to bring that up. Thank you, and thank you, Madam Chair.

MS. LOE: Any additional questions? I see none. Thank you. Any additional speakers on this case?

MS. FARLESS: Hi. Nicole Farless; I'm the owner at 416 Parkade Boulevard. First, I'll start with the driveway situation. That was news to me, as well, and someone just drove through my property trying to, like, survey out a driveway through my property without her checking to make sure, like, who owned the property first, so I think that was also a little like unprofessional on her part just to assume part of my property was hers for a potential driveway location. Then I have not talked to this resident about her husband, so I don't know where that's coming from. But I think the more concern is just

she's already renting part of it -- of her house to other people, as well. And then if they sell this property in five years, if there's, like, the -- what you guys were talking about before with the R-1, like, I forget what you were talking about, but, like, if it's like two tenants sort of thing where, like, a tenant -- a long-term tenant could rent the ADU, I feel like that is more of a concern, maybe not with this owner, like she was clarifying, but, I mean, this five years from now, ten years from now when she sells, and I believe that's a bigger issue. Like, this is a small -- I mean, it's a -- a quiet older neighborhood, and this is a really small ADU she's wanting to add, less than 400 square feet, so to have renting that out, like the -- my concern is, like, the quality of person that's going to want to rent a 400 square foot bedroom. Like, that's just probably, like, a lot of turnover in tenant use for like a small residential neighborhood, so that's my concern is, like, in the neighbor.

MS. LOE: So just to explain what we were discussion is that the qualification would require that the property be --

MS. FARLESS: Yeah. What is a long-term tenant?

MS. LOE: -- owner -- essentially, owner occupied. But what we were discussing was whether that owner could be a long-term tenant.

MS. FARLESS: But, like, does long-term tenant mean six months, does that mean five years. Like, if, like, long-term tenant is like -- it's objective on what that means.

MS. LOE: It means more than 30 days.

MS. FARLESS: That's not very long then to have --

MS. LOE: I know, but you're not -- most people don't -- that's just how we define things in our -- it usually means a year or more.

MS. FARLESS: Yeah. I think --

MS. LOE: But it means whoever is renting it out has to live with whoever is renting out the other unit, so it makes a difference.

MS. FARLESS: I feel like it's more comfortable for the residents of the neighborhood if the owner is actually present while --

MS. LOE: Well, that's the ideal situation, but there's been discussion on previous ones regarding not wanting -- or concern about restricting it completely to that.

Commissioner MacMann?

MR. MACMANN: To address this witness' concerns, the conditional use permit, owner occupied, would stay with the property.

MS. LOE: Yes.

MR. MACMANN: Are you with us on that?

MS. FARLESS: Yeah. I understand that it's going to stay with the property. I'm just saying, like, she was -- she came in and was trying to give this nice spiel about how, you

know, her intentions are for the property. And that's her intentions, but she sells the property in five years, it's what the new owners, and they'll inherit the ADU and that the whole --

MR. MACMANN: The new owners would have to abide by the same.

MS. FARLESS: But they have to abide by that, but then they could leave. They could rent out that property to someone, and then they could rent out -- like, just what the -- what you were saying with the long-terms, and I think that's just more of an issue of five years from now, new owners having a long-term tenant that rents it out. I think that's a little bit more up in the air.

MR. MACMANN: I'm with you. I'm with you on this. I would rather the owner be present.

MS. FARLESS: Yeah. And then if this is approved as the neighbor on 416, maybe there could be some conditional for, like, a buffer, like a landscape buffer, a fencing. There's no fencing separate the properties right now. Maybe there could be some sort of conditional landscaping just for -- if there's going to be a lot more traffic, a lot -- like, eyesore sort of thing, just a nice landscape buffer or fence buffer maybe.

MS. LOE: I don't believe our -- our Code typically requires buffer between like kind residential use, so yeah, that is something we would have to think about. Any additional questions for this speaker? I see none.

MR. MACMANN: Mr. Stanton.

MS. LOE: Oh. Mr. Stanton.

MR. STANTON: Oh. What if this was you and this was your house, and you had the opportunity to do this, how would you do it? Not -- you're not you. Put yourself in her shoes, and you were doing this, how would this project look to you to make it the way you would like it?

MS. FARLESS: If I was to do something like this, I wouldn't feel comfortable making a less than 400 square foot dwelling, and then trying to rent it out to someone, because who wants to live in a studio apartment house behind someone's house. So I'm just expecting not to have quality tenants in a dwelling like that personally.

MR. STANTON: Okay.

MS. FARLESS: Like, you know, I --

MR. STANTON: My father was a principal in Houston -- in a small town outside of Houston, and he lived in the ADU of an oil rigger, a guy that used to work out in the Gulf Shores. Beautiful house, he lived in an ADU in the back of this guy's property. My father was a principal of the school.

MS. FARLESS: What was the square footage though? Less than 400 -- it was like

300 and --

MR. STANTON: Probably -- probably that.

MS. FARLESS: Three hundred and seventy-five square foot? Because that's like a bedroom. That's not a kitchen. That's --

MR. STANTON: That's all my dad needed.

MS. FARLESS: That's just --

MR. STANTON: Like a big master bedroom is what it was kind of like.

MS. LOE: Commissioner MacMann? Or I'm going to go to Commissioner Geuea Jones first.

MS. GEUEA JONES: What would you consider to be a quality tenant because you keep using that term.

MS. FARLESS: Yeah. I guess I'm just thinking about, like, what house would I want to live in. And, like, less than 400 square foot to me just doesn't seem, like, a really livable space. I understand you're saying your father -- or father-in-law -- I don't remember what you said, lived in that, but I can't picture living in something less than 900 square foot.

MS. GEUEA JONES: Yes.

MS. FARLESS: Like, it just seems like a -- like a --

MS. GEUEA JONES: But again, my question is not where do you want to live. My question is you're worried about quality people being in your neighborhood. So what do you consider a quality person, if that's your criteria?

MS. FARLESS: Someone that has a steady job that can afford a rent, like, that's -- like someone who can only afford -- I don't know how much this would go for rent. Right? Like, if it's, like, less than \$300 a month rent, like, that's just -- I guess that's someone who -- like, we had -- we had some, like, some squatters in the neighborhood where some houses got, like, with, like, some drug traffic in and out. I guess that's my concern maybe. I don't really know. I would assume that they would have higher standards for, like -- like have applicant applications or something. I don't know. But --

MS. GEUEA JONES: That's why we want either the owner or the person who signed a lease to be the one living on the property, because if you've signed a lease, and crime is happening on the property, you're responsible for that. And if you're the owner and crime is happening on the property, you're responsible for that.

MS. FARLESS: But that can take a long time to get dealt with. Right? Like we had a house in our neighborhood where there were squatters, and it took two years --

MS. GEUEA JONES: But the owner didn't live there. That's why we're saying we're going to have the owner live there.

MS. FARLESS: Which is what I said about originally when I first came up. Like, I thought the long-term tenant was more of a concern than an owner with the rental.

MS. LOE: Mr. -- Ms. -- Commissioner Placier?

MS. PLACIER: Yes. And you may not be aware, but the tiny house movement is a big deal right now. It's kind of -- there's even a TV series about it. And so there are a lot of people, elderly people or graduate students, or people who just want to have a simpler lifestyle who are attracted to the smaller homes. So it might be very quiet people that want to occupy a tiny house.

MS. LOE: Commissioner Stanton, then Commissioner MacMann.

MR. STANTON: My dad made six figures and paid for a little house. That meant he had a lot more money to send me. So people get what they need. Tiny homes are the rage because people are being more efficient. The ADU came about here, number one, for the little guy, like this homeowner, like you could extend the wealth of their property. In addition, it's -- it's a U.S. tradition. It's like -- have you ever heard of a mother-in-law suite? That's basically what an ADU is.

MS. LAWLESS: Yeah. I understand the mother-in-law suite, and I don't have any issues with that at all. Mine was just the -- like, I don't know.

MR. STANTON: My dad just needed a place to study. He was a Ph.D. candidate, as well. Place to stay, a place to lay down. He was right outside of Houston. Like I say, he lived in the back of an oil rigger's home, you know.

MS. LOE: Commissioner -- oh.

MR. STANTON: No. I'm fine. I'm good.

MS. LOE: Commissioner Kimbell?

MS. KIMBELL: Is there a home association in your vicinity?

MS. FARLESS: I don't think so.

MS. KIMBELL: Do you think something like that might come in helpful?

MS. FARLESS: I don't think so. I don't want to have to deal with an HSA.

MS. LOE: Commissioner MacMann?

MR. MACMANN: For your local examples, are you familiar with where the Old Southwest is?

MS. FARLESS: No.

MR. MACMANN: Okay. It's right over there. The Old Southwest is the properties and homes on either side of Stewart Road. Do you know where that is?

MS. FARLESS: I've only been in Columbia for three years, so I don't know it very well.

MR. MACMANN: Okay. Stewart Road, it's a professor and doctor row. Okay?

There are many half-million-dollar and up houses down there. The area is full of ADUs. Most of them not legally -- (inaudible) -- but small apartments. Also, for your education, I looked at an efficiency on Sunday, and I just figured out it's 290 square feet. They wanted \$650 for it. So I appreciate your concerns. Most people are doing this to generate a secondary income, and they don't want squatters. They don't want the second half problems that you are concerned with. Thank you, Madam Chair, for the second bite.

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

MS. BLOCHER: My name is Melissa Blocher, and I live at 415 Parkade Boulevard. I'm totally against this, and I have a couple of concerns about it. The property that she has, number one, we were docketed from the June meeting. She was supposed to talk to us all. She has never contacted any one of my neighbors or myself. Second, she had that driveway up and dug this morning. They were loading a truck with the dirt. It hasn't even been approved. The people that come out and flag for gas lines and things, that wasn't even done. But her property is on a curve. Where this driveway is coming out is on a curve, as you come around that curve. That curve is being held; her property is being held up by a retaining wall that is falling down. It is not going to take -- she didn't go up the regular driveway and make her driveway excavated out. She came up the whole backside of her driveway. So what she's talking about for parking, I'm not sure what -- she's going to have plenty of parking for you guys because now she's up a different way. She rents out her house already. There's a structure on that property already. They call it a garage or a -- it's been -- it wasn't a garage. They closed it in, and it is now a -- truthfully, a shed that it could be an art studio, it could be another room, it could be her other property. The neighborhood does not want this. We do not want it. I've lived in my house 30 years. I've watched that house go from rental, to owned property, to rental, to owned. She's never here. She's not on this property enough. She comes here to do her classes, get her things done, and leaves. It has had rental people in it all this time. I am speaking for three neighbors. We do not want this.

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

MS. BLOCHER: Thank you very much.

MS. LOE: Any additional speakers on this case?

MR. GARD: My name is Dennis Gard; I live at 419 Parkade. I kind of got to know one of the renters there, and he informed me that it was going to be an Airbnb, and she was going to live in that little house in the back. But her husband is in Reno, so who's to say when she'll be there and when she won't. I don't know. I've just got an ill feeling about the whole thing. I don't really have anything big to say. I just wanted to put in my

little two cents.

MS. LOE: Thank you. Any questions for Mr. Gard? Commissioner Placier?

MS. PLACIER: Yes. I was going to ask the last speaker this same question. Have the -- we were not given to understand that it was being rented out now, but if it is being rented out now, is it your impression that the current renters are taking good care of it?

MR. GARD: Yes.

MS. LOE: Any additional questions for this speaker? I see none. Thank you. Any additional speakers on this case? Seeing none. We'll close public comment.

PUBLIC HEARING CLOSED

MS. LOE: Commission comment? Commissioner Geuea Jones?

MS. JONES: Do we have wording on an amendment with a condition?

MS. THOMPSON: Well, it depends on what condition. I've heard a couple different things.

MS. GEUEA JONES: Okay.

MS. THOMPSON: So I just want to get clear on what condition you all are wanting. It -- I guess the first decision is whether either the primary or secondary dwelling unit be owner occupied at the time that a rental certificate is issued.

MS. GEUEA JONES: I think the one, if -- if it's permissible, the -- when we get there, the amendment that I would propose would be that one -- no more than one rental certificate can be issued for that property. And that would allow for subletting, if needed. It would mean you can't rent the ADU separate from everything else, but your -- to Commissioner Stanton's point, this Commission is generally supportive of the idea of creative housing solutions in a city where we have real housing problems. I don't see anything -- it's a large lot. I don't see anything here. You know, I understand that the neighbors clearly don't like this piece of property and haven't for a while regardless of who owns it, but that's not the question before this Commission. The question before this Commission is, is this an appropriate land use, and does it support what we've said in things like the Columbia Imagined plan with regard to housing and infill and density and that sort of thing. So if we can get some kind of condition put on it so that it doesn't become an R-2 property in an R-1 zone, I would be supportive of it. And my suggestion would be limit the number of rental certificates issued -- certificates of occupancy issued. And that's three unrelated adults, I believe. Yeah.

MS. LOE: Commissioner Stanton?

MR. STANTON: Would it be out of line to extend that condition to say, okay, if I'm a long-time renter of that property, any subleasing has to be in conjunction with the owner; I guess, blessed by the owner, as well? Is that possible?

MS. GEUEA JONES: It would have -- I mean, we can add it, but it would have to be, because if it's in your -- if you're breaking your lease, you're breaking the lease.

MR. STANTON: Then I -- there's no way I could sublease without the owner knowing? I think that happens a lot, doesn't it? Renting a four-bedroom house, and I've got three other people living in it and my -- as long as the rent is paid, my landlord probably doesn't care.

MS. LOE: I think we're starting to get into private agreements between the owner -- the landlord and lessee or tenant, so --

MR. ZENNER: Mr. Stanton, if I may. The -- the notification of subletting, and I think the discussion that you're having here right now, that does become a private party issue.

MR. STANTON: Okay.

MR. ZENNER: And probably to Ms. Geuea's point, would have to -- the landlord would have to authorize their tenant to do so. And for us to try to track that as part of the rental certificate at the City level, we're not set up that way. So I think the -- the solution that has been offered by Ms. Geuea Jones to -- that only one rental certificate shall be permitted on the property is potentially the most expedient method by which, if you are considering allowing the ADU to be constructed. I think the principal land use issue here is is you have to -- the determination is, is an AUD -- is an ADU -- AUD -- ADU allowed. That's the land-use question. So does the site meet the criteria to allow an ADU to even be built. If you determine that it doesn't, then the topic is done. If you determine that it is, conditioning the tenancy of that ADU, that extra structure, that accessory structure by only allowing one rental certificate, that addresses everything and it does not get into the issue of owner, because it's tenant through a private agreement with the owner and their lease, or it's the owner renting their ADU. And that actually, I think, get to the crux of the matter that we're trying to deal with here. No backdoor R-2ing of an R-1 zoning district.

MS. LOE: Commissioner Burns?

MS. BURNS: I just have to go back to the public comment that we've heard tonight. I'm uncomfortable with -- I don't feel like there is consensus with the neighbors or there's been discussion. I don't know if the applicant would consider self-imposing some of the things that we're talking about here in her application process in that it has to be owner occupied. I -- those are the concerns I hear from the neighbors. But I'm having difficulty supporting this given the opposition and the lack of communication that I hear. We always encourage communication. I think my fellow Commissioner's suggestion about an HOA is something to consider also. I know there isn't one right now, but I -- this is a new use for this property and we're talking about existing property owners that are surrounding it. And I can't ignore that, that we are impacting them, and they've come

here and said what their thoughts are about it.

MS. LOE: Commissioner Stanton?

MR. STANTON: Okay. Mr. Zenner, you brought up a good point, and I have made this assumption. I assume by the time it got to us, that this property was ADU certified. That's not the case? So we don't know at this time, does this land -- does this property even meet the criteria for an ADU or we do?

MR. ZENNER: It does.

MR. STANTON: It does. Okay.

MR. ZENNER: It would not have come to you if it did not.

MR. STANTON: Okay. That's what I just wanted to make sure that's -- that's to go.

MR. ZENNER: But the decision, my point being, is the decision here is authorizing the structure type to be added to this R-1 parcel. The issue that we're wrestling with is the tenancy of that structure type should you agree that the use is permissible.

MR. STANTON: Thank you, sir.

MS. LOE: Any additional comments? Commissioner MacMann?

MR. MACMANN: If there are no more questions and concerns --

MS. LOE: I do.

MR. MACMANN: You do have some?

MS. LOE: Yeah. I always have to speak last, so it takes me a while to get a word in edgewise with this group. But I have to -- I do have a concern about the backdoor R-2, and should this be approved, that is something I would want to condition. However, given this is a conditional use, and I do believe that we made a conditional use in the R-1 for a reason, I would want to see support from the neighborhood for that use. And given we have seen no support from the neighborhood, I cannot, in good conscience, support the request without further negotiations or development happening. I mean, I think this is the very reason we have this process for the R -- for ADU in the R-1. Mr. MacMann?

MS. KIMBELL: Oh. I have -- I have a question.

MR. MACMANN: Ms. Kimbell.

MS. LOE: Commissioner Kimbell?

MS. KIMBELL: Is there anything in the covenant and restrictions that applies to an ADC in this particular area?

MS. LOE: They don't have an HOA.

MS. KIMBELL: Oh, that's right. Thank you. Okay.

MS. LOE: Any additional comments?

MR. STANTON: Since you opened that can of worms, Ms. Chairman. I agree. I

mean, I think we do conditional so we can get the blessing from the neighbors. I just have a problem with -- this seems like nobody wants to compromise, like, they're just like no. No. No. No. And I have a problem with that because the essence of this -- the essence of this ordinance was to help homeowners extend the use of their property in a civil manner; you know what I mean? And it's new and you know what we go through, and then, you know, I don't know. It disheartens me. I think there probably could be more communication, but there's -- there's got to be a win-win somewhere here, and it just can't just be no. And if this is your property and you -- and you had a way to make some additional income in these days and times, there's got to be a win-win somewhere, and that's all I'm saying is that the more communication needs to happen. It just can't just be no without any compromise at all, especially when it comes to my land that I paid for.

UNIDENTIFIED SPEAKER: (Inaudible).

MS. LOE: We're not in public comment right now, so I think we're going to take a vote, and -- Mr. MacMann?

MR. MACMANN: If my fellow Commissioners have no other comments or concerns, I'm going to make a motion, and I would like Commissioner Geuea Jones to help me with the wording to make sure that -- because I want to move what you want. Okay?

MS. GEUEA JONES: Okay.

MR. MACMANN: In the matter of Case 152-2021, the approval of a conditional use permit for an ADU for 504 Parkade Boulevard, I move in the affirmative, I move to approve with the following condition that only one rental certificate be issued for this property.

MR. STANTON: Second.

MS. GEUEA JONES: Yes. Yes.

MR. MACMANN: I'm getting nods all the way around the room. That's my motion. Mr. Stanton, is that good by you?

MR. STANTON: Yes. I seconded it.

MS. LOE: He seconded. Commissioner Stanton seconded. We have a motion on the floor. Any discussion on that motion? Commissioner MacMann?

MR. MACMANN: I know this has been a long time, but I think this is worthwhile, and this needs to go to Council. Following up on what Mr. Stanton said, I view this as an opportunity. This will go to Council, and when, Mr. Zenner, will this be at Council?

MR. ZENNER: Introduction would be September 20th.

MR. MACMANN: I -- I think there's a win-win there, and I think it's going to go up the post. I'm done.

MS. LOE: Commissioner Burns, may we have roll call, please?

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, Mr. Stanton.

Voting No: Ms. Loe, Ms. Burns. Motion carries 6-2.

MS. BURNS: Six to two, motion carries.

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

In the matter of Case 152-2021, the approval of a conditional use permit for an ADU for 504 Parkade Boulevard, move to approve with the following condition that only one rental certificate be issued for this property.

Yes: 6 - Rushing, Stanton, MacMann, Geuea Jones, Kimbell and Placier

No: 2 - Burns and Loe

Excused: 1 - Carroll

Case # 221-2021

A request by Caleb Colbert (agent), on behalf of LJ Land Company LLC (owner), to rezone property located at 5301 St. Charles Road from R-1 (One-family Dwelling) to M-C (Mixed Use-Corridor), which is currently in use as a manufactured home park. The approximately 2.4-acre property is located on the north side of St. Charles Road, approximately 500 feet west of Grace Lane.

MS. LOE: Mr. Zenner, may we have a staff report, please.

Staff report was given by Mr. Pat Zenner of the Planning and Development Department. Staff recommends denial of the rezoning to M-C.

MS. LOE: Thank you, Mr. Zenner. Before we move on to Commission questions, I would like to ask any Commissioners who have had any ex parte related to this case to please disclose that now so all Commissioners have the same information to consider on behalf of the case in front of us. Seeing none. Are there any questions for staff? Commissioner Rushing?

MS. RUSHING: I'm just curious what that little strip is up through the middle of this property.

MR. ZENNER: That is actually the original road that was platted with this subdivision. And what is obviously eventually developed over time is not what was originally identified as the lot arrangement. The units actually in the trailer park go over the road and the road goes around the outer edges of the park. This is an extremely old park itself, as the individual that contacted me today indicated, that has probably exceeded its -- its life expectancy.

MS. RUSHING: So does that indicate as -- a different ownership or just in use?

MR. ZENNER: No. That's the original -- that's that -- that's the survey or the platting

layout that existed when the new owner took ownership of the property.

MS. RUSHING: And staff recommended M-N; is that correct?

MR. ZENNER: No. We did not recommend any alternative zoning on this particular property. The applicant pursued forward with an M-C zoning request. I would imagine Mr. Colbert may be able to respond to that more directly, as he may have been in contact with Mr. Smith, as the report was being -- or the project was being reviewed. We typically will not offer or supplant a zoning classification without the applicant consenting to such. And my understanding, there is no record of that that we had an agreement to reduce the zoning.

MS. RUSHING: So --

MR. ZENNER: M-N is what is immediately to the east of this property along the St. Charles Road frontage. The parcel is in --

MS. RUSHING: But it's really an outlier, that little piece of M-N?

MR. ZENNER: It is. The M-C that I showed you on the zoning map, the surrounding zoning map, so this M-N exists here. This parcel was zoned -- was rezoned and annexed, if I recall correctly, into the City in 2019. That was directly across from County planned zoning, which is the majority of what this -- the other properties that are here consist of. And then the property, the larger parcel where my cursor is is actually -- that's general commercial -- County general commercial, so there's no plan on it. It allows a variety of commercial uses. The CGP to the south, which is a planned commercial zoning district in the county is for a manufacturing business, if I am not incorrect. The red that's immediately adjacent to that is recognition of our City M-C. So at the time that these three parcels came in to be rezoned, these two -- there's two parcels here. These were rezoned M-N, and then this one, because of the existing land use, was -- the only way we could accommodate the existing land use and given what the County planned zoning was adjacent to it, we consented to the M-C zoning here. But at some point in -- and I imagine Mr. Colbert will cover this in his presentation. At some point, this line, as it exists here that runs north-south, really is defining where that transition is. And given our analysis, on the south side of St. Charles Road, you already had this commercial transition from more intense commercial uses in the County to an intense commercial use in the City, to a less intense commercial use in the City, to residential. Presently, we've got the mobile home park zoned R-1, which acts as an appropriate buffer to the adjoining Ag and then residential PD. We would, in essence, be basically eliminating that buffer, upzoning it greater than what the adjoining parcel is to the east, and basically providing an adequate buffer. And what we are concerned about is that this parcel needs to buffer the remaining residential similarly to what the M-N

transition south of St. Charles Road does.

MS. RUSHING: But there would be a road between this property and the residential?

MR. ZENNER: Talon Drive would continue to exist in its location and is subject to -- it provides access to just the PD zoned area. So, yes, you are correct.

MS. RUSHING: Yeah. And it seems a little ironic to refer to this mobile home court as transitional between -- between the commercial and the single-family residential. I don't know that that's a plus.

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

PUBLIC HEARING OPENED

MS. LOE: If you can give your name and address for the record.

MR. COLBERT: Good evening, Madam Chair. Caleb Colbert; I'm an attorney at 827 East Broadway, and I'm here tonight on behalf of the property owner, LJ Land Company, to ask for approval of the M-C zoning. Again, this is the property that we're talking about, and it shows -- it really highlights the existing zoning in the area. Essentially, this property is located in an existing commercial corridor. Everything to the east between our property line and the St. Charles Road and the I-70 intersection is zoned commercial of some capacity. There is the County zoning. You have general commercial directly to the east, you have planned commercial to the south, which was described in the staff report as a heavy commercial use, so we believe our request is very consistent with what is out there today. Again, property immediately to the north has the exact same identical zoning that we're asking for in this request, the Mixed-Use Corridor zoning. The property immediately to the south, directly across the road, is also zoned M-C Mixed-Use Corridor. We have similar commercial uses to the east. And I also want to highlight that the property to the west is multi-family. That is a multi-family residential use, which is a - - requires a different type of buffer than R-1 zoning. Not all residential uses are created the same. Now Mr. Zenner noted in his staff report that we had to create a boundary. I would respectfully suggest that the line that we've drawn is the appropriate boundary for commercial zoning or commercial property in this area. Essentially, it is a straight north-south line that ties all of the existing M-C zoning together. That treats all of the properties the same. Ms. Rushing, as you indicated, if -- if we do not have commercial zoning in this location, then essentially, we're the outlier. We're the property that fronts on St. Charles Road without some sort of commercial zoning. And again, if the property immediately south of us that fronts on St. Charles Road was good enough to be a corridor zoning, we would suggest that our property should be treated the same. The staff report also noted that we need a transition to residential uses. I would respectfully

suggest to the Council, to the Commission, that we use multi-family zoning next to M-C zoning throughout the city. This -- what is shown on the screen is Westbury Village. You have M-C that was approved and is surrounded by R-MF zoning, again separated by a road, which is exactly what we will have on our site. This is the Hy-Vee on West Broadway, again directly adjacent to R-MF zoning. This shows the shopping center at the corner of Broadway and Stadium. Again M-C zoning next to R-MF zoning. The Business Loop, M-C zoning directly adjacent to R-MF zoning. Throughout the City, and we can go through example after example of property in the City that's zoned Mixed-Use Corridor that is adjacent to R-MF zoning. If it is appropriate in all these other locations for Multi-Family zoning to be adjacent to be adjacent to Mixed-Use Corridor, and to act as a buffer as you step down to less intense residential uses, we would suggest that Mixed-Use Corridor zoning is appropriate here as a buffer to the less intense residential uses further to the west. As to the buffer to the Ag property, you could see this tract is heavily wooded. To the west of the site, there is a substantial natural buffer to the Ag zone to the northwest. And, again, Talon Road is going to be extended to the north. Again, another natural buffer for the property owners to the west. In addition, we do have the support of the property owner to the west. Now, we received this today. This is the property owner of the multi-family residential, and they are in support of this request. But just to kind of summarize everything again, M-C zoning is identical to what we have to the north of us, to the south of us, and is consistent with what we have to the east, and it provides a comparable buffer to other locations in the City to residential uses. I would be happy to answer any questions. I do want to comment on, just, I guess, as we wrap up on a couple of comments that were made. We did receive several calls and several contacts as a result of the City letters that went out, and so it might be helpful for City staff to summarize the time line going forward on this, just so folks know when City Council meetings will be, that sort of thing. And I also want to express for the folks in the audience that those letters were not an official notice from the property owner. We are not within that 120- or 180-day window at this point. The notices that went out from the City were just as to this hearing this evening. And with that, I would be happy to answer any questions.

MS. LOE: Thank you, Mr. Colbert. Commissioner MacMann?

MR. MACMANN: Thank you. Mr. Colbert --

MR. COLBERT: Yes, sir.

MR. MACMANN: -- I'd like to address your -- the final portion of your presentation first. With the exception of Westbury Village, which I'm going to set aside for the moment, all of those developments that you listed in your presentation precede the UDC.

So our more current view to step down was not expressed in those. Westbury Village, number one, that was a dogfight that this Commission turned down, and the M-C was stuck in the middle of that. I'm not sure it's the best exemplar. Regardless of that, I do agree with staff that M-N would be more appropriate, but I'm not even there. I'll tell you where I am. I'm about six years ago east of 63. There was a proposed hospital that never developed. The location was a trailer park. Two hundred people ended up who knows where. Now we probably have 50, maybe a little bit more, in a housing market where you can't buy anything, and they're out. This concerns me greatly, and I can see some other people have that concern, also.

MR. COLBERT: If you don't mind, I would be happy to respond to that. In this particular case, there are 19 total manufactured homes.

MR. MACMANN: Uh-huh.

MR. COLBERT: Ten of them are vacant right now. And in our view, it would not be possible to make them in a livable condition. I mean, it is --

MR. MACMANN: Mr. Colbert, I heard this exact argument when I went back and read about the Sharp End. We had to move them out because those houses weren't habitable. I'm not buying it so much. We're still talking about 25 people. That's the last I have right now. Thank you, Madam Chair.

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

MR. COLBERT: Thank you.

MS. LOE: Thank you, Mr. Colbert. Any additional speakers on this case? Seeing none. I'll close public comment.

PUBLIC HEARING CLOSED

MS. LOE: Commission comment? Commissioner MacMann?

MR. MACMANN: I could maybe put a little point on what I just said to Mr. Colbert, and I respect them. This is seemingly speculative. We've got no other -- we've got no plan for anything going in there, and that's what happened to these folks on east of 63. They were given their four to six months, and they were out. This market, as you guys may know, houses are tremendously expensive. Rent is tremendously expensive. And to move even 25 people out who, if I may be so bold, may be among the most vulnerable in our community, at this time on a potential speculation, I view as deeply problematic. Thank you.

MS. LOE: Regarding the zoning, the comment about buffering, it wasn't clear to me, frankly, what the M-C would be buffering against because I guess I consider the M-C to be a more intense use. And it's C-G or R-S to the east of the property. So the PD, which I would consider more R-2 than multi-family, Mr. Colbert, I would consider it to

actually be of a more intense use than the properties to the east. I was not in favor of zoning the properties north of it M-C. I agreed with staff on that. So the fact that those have -- were approved, even though this body didn't approve that, but we still have the agriculture which is being used as single-family, and the PD which is being zoned ostensibly as R-2 use to the west. To Commissioner's Rushing's point, yes, Talon Road is to the east of the PD, but we also have the M-N across St. Charles. And I would posit that Talon Road is a lesser road than St. Charles and therefore, I'm not comfortable with putting M-C next to an existing residential property regardless, frankly, of the density of that residential. That's been my position whenever we've had M-C come forward. When we have existing residential, we need to be cognizant of that use. So I would not support the M-C use. Any additional comments? Commissioner Burns?

MS. BURNS: And I just have to go back to the staff report, which identifies both Columbia Imagined and the East Area Plan designated this site as residential. I do have concerns about the M-C, particularly since we don't know what's going there, and what could go there if it would be rezoned M-C.

MS. LOE: Any additional comments? Commissioner Placier?

MS. PLACIER: Yes. I think that just to echo what Commissioner MacMann said, I would rather see a use of this or a rezoning of this -- I guess it wouldn't need a rezoning at this point -- to be affordable housing if there's anything going to come before us in the future, whether it's multi-family or whatever it might be.

MS. LOE: Commissioner MacMann?

MR. MACMANN: If there are no other questions or concerns, I'd like to make a motion. Seeing none. In the matter of Case 221-2021, 5301 St. Charles Road rezoning, I move to approve -- note that I'm moving in the positive. I will not vote that way.

MS. GEUEA JONES: Second.

MS. LOE: Second by Commissioner Geuea Jones. We have a motion on the floor. Any discussion on this motion? Seeing none. Commissioner Burns, may we have roll call, please.

MS. BURNS: Yes.

Roll Call Vote (Voting "yes" is to recommend approval.) Voting Yes: Ms. Rushing, Mr. Stanton. Voting No: Mr. MacMann, Ms. Geuea Jones, Ms. Placier, Ms. Kimbell, Ms. Loe, Ms. Burns. Motion defeated 6-2.

MS. BURNS: Six to two, motion is denied.

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

In the matter of Case 221-2021, 5301 St. Charles Road rezoning, move to approve

Yes: 2 - Rushing and Stanton

No: 6 - Burns, Loe, MacMann, Geuea Jones, Kimbell and Placier

Excused: 1 - Carroll

VII. PUBLIC HEARING AND SUBDIVISION REQUESTS

Case # 225-2021

A request by Crockett Engineering (agent), on behalf of White Oak Investment Properties, LLC. (owner), to rezone two tracts from M-N (Mixed-Use Neighborhood) to IG (Industrial) including 0.09- acres of split-zoned property from IG/M-N to IG. The subject site includes a total of 1.08 acres of land located at the northeast corner of Fay Street and Hinkson Avenue. This rezoning is desired to facilitate future expansion of the Logboat Brewery facility. A concurrent request, Case #223-2021, seeking final plat approval of the rezoned acreage is to be consider on the August 19 agenda.

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

Staff report was given by Mr. Brad Kelley of the Planning and Development Department. Staff recommends approval of the requested rezoning to IG and approval of the requested final minor plat of Central Addition Plat No. 2-A.

MS. LOE: Thank you, Planner Kelley. Before we move on to questions for staff, I'd like to ask any Commissioner who has had ex parte prior to this meeting to please share that with the Commission now so all Commissioners have benefit of the same information on behalf of the case in front of us. You guys are pointing at each other. No? Commissioner MacMann?

MR. MACMANN: I do not have any ex parte on this, but I do have a personal relationship, so I need to recuse on this.

MS. LOE: Ah. Recuses. Any other recusals? Do we still have a quorum? One, two, three, four, five -- yes. Okay. Any ex parte? No. Questions for staff. Planner Kelley, since Mr. MacMann is not here to fill the void, we just heard a case where staff recommended not leapfrogging zoning, and now we're being presented with a case where we're proposed to insert a different zoning in between less intense uses. Do you want to just comment on that since we're hearing these cases back-to-back?

MR. KELLEY: Sure. Broadly speaking, in the study area largely IG and M-N are the specific -- one of the specific tracts in question is split zoned, IG and M-N, so that was also important to consider. In referencing, you know, the buffering or what's to the east, I believe what was what you're discussing, it's a major arterial, so there will be a -- as a part of the right-of-way dedications when the part of Benton-Stephens should that develop and be platted, College Avenue would ultimate have 106 foot right-of-way corridor, so it

would be a minimum of 106 feet between that in addition to the setbacks. So we're looking at a pretty extensive buffer when you account for the right-of-way and all of that. And again, we're largely looking at this district and area kind of defined as bounded by College Avenue, Rogers, and the COLT Railroad.

MS. LOE: Okay. That sort of addresses what was going to be my follow-up question, which was placing M-C across from the R-MF, which was something we were also discussing in the last case. I was sort of looking in this first part of the question as inserting M-C in between M-N and M-N, which was part of the argument of something not to do in the last case. So right -- we're switching M-N along College Avenue so that there will be M-N, M-C, M-N.

MR. KELLEY: There wouldn't be any M-C on -- on this.

MS. LOE: On College? Then I am completely misunderstanding. So we're not rezoning the lots along College?

MR. KELLEY: Yes. To IG.

MS. LOE: Or to -- I'm sorry -- IG?

MR. KELLEY: Yes.

MS. LOE: More intense than M-C.

MR. KELLEY: In the sense of this -- yes. That this permits industrial uses, yes.

MS. LOE: Yes. So we're going from M-N to IG to M-N.

MR. KELLEY: Along College. I would also like to point out that these -- this parcel fronts Fay and this building, its frontage is towards Fay, as well as to the rear of this is to College, if that -- to the point that these do not front College in that same way.

MS. LOE: All right. That might help with my third question, which is M-N does have a height limit, 35 feet. IG has no height limit. There was no comment on that in the staff report, but that bothered me a little bit. Was this discussed at all with the applicant? Do we know what the height -- I mean, this is not a speculative project.

MR. KELLEY: Right. Briefly, not to a large extent. What we've seen from the proposals, the height is largely consistent with what's already there, so there's that that we are aware of, but, yeah, you're correct in that the IG zoning doesn't have a height limit. The Logboat Brewery facility now, the portion that it's on is in IG, and so it's built to that right now. And what we've shown is as -- at that same height.

MS. LOE: Right. This goes back to my first concern, and you're -- I was thinking of the last case with the M-C. It was the M-N to IG -- to M-N, and just having that parcel in between with -- that's going to be -- I mean, I know it's Logboat for now, but zoning stays with the property. Is there any way to qualify? I mean, I know we don't want to do PD, but --

MR. KELLEY: Another thing I would add, it was definitely considered that this is only going to be a roughly one-acre lot, so you're rather limited on what you can do there. Large industry isn't going to be able to come in and do much on one acre, so it's kind of naturally constrained by its size.

MR. ZENNER: I think, Ms. Loe, we have to -- we've looked at this more from a holistic perspective of what the original environment was, not what it has now become as a part of the application of zoning over time.

MS. LOE: Uh-huh.

MR. ZENNER: The Hanger building is immediately to the north of this property along College Avenue. That building may or may not in the near future exist. We are currently experiencing a renaissance of redevelopment along the Fay Street corridor. This had already been -- I think, has a moniker associated with it for this particular area of the downtown that I would believe is going to be further facilitated with this catalytic project, if it is approved for this area. We have seen development north of the COLT Railroad that has introduced mixed-use development utilizing the pedestrian zoning classification. We have been approached in regards to the elimination of Eugenia Street as a public right-of-way and a consolidation of that property in order to allow for it to then be expanded as more of an industrial type of use, really reclaiming the original zoning of this particular area that relied upon the COLT Railroad. I think while we would look at maybe Rogers as the very southern boundary of this property, I would suggest to you, given the development that is along Rogers and accessible, basically, principally from Rogers, but has the backdoor entrances on the Hinkson, Hinkson defines really the boundary of this district. It doesn't go all the way down to Rogers. Rogers is currently -- the development off of Hinkson, it's Walt's on the corner. We have recently seen the redevelopment of the old Necropolis Building into a mixed-use structure, and then we have the drum shop and an existing smaller building there at the corner of Nichols. That area is isolating, obviously, and transitioning to the residential that is further to the south in the same streets. And therefore, I don't think you would ever see us probably coming in and supporting any type of IG zoning further south than Hinkson. The corner parcel is something that was discussed initially as potentially trying to acquire. It's at this point not an available property. However, had it been included in this request, you probably would have had a far more meaningful pocket of IG created here, allowing some other opportunities, but that just hasn't materialized. Residential development or commercial development in this particular location may or may not be successful. And so the residential development is gone. It was removed. It was improperly zoned. It was M-N, originally C-1. Those houses then were eliminated. So we're seeing a transition, and I

believe that the request that's before you this evening is consistent with the transition that we believe is appropriate for this particular area and its revitalization. I believe Mr. Kelley discussed the issue associated with it that it's currently classified as an artist and industry, however, the expansion moves it beyond artist and industry standard, and by taking it so far beyond what the artist and industry standard permits square footagewise, while a conditional use would have existed as an opportunity for them to ask for the zoning to remain, it, in our opinion, was inappropriate given the scale of the expansion. It was a 10,000 square foot conditional use expansion. That is actually far greater than what we thought we were -- we would be comfortable with, and we thought that IG better classifies this property. The IG zoning classification in its heavy industrial uses really are inappropriate in this particular location, and given the size of the site, would never materialize. Light industrial uses, however, require an 80 percent interior usage. So if this were to convert to some other building potentially with a taller elevation, this particular corridor with the development further to the west of Columbia College, the height there may not be that out of character given that it's north of Rogers. So I think when you think about what is here, what is being proposed to be expanded here as the catalytic project for this area long term, we believe that this is appropriate. We believe it's a reestablishment of what history previously had in this location, maybe aside from what our current zoning is.

MS. LOE: The only other use that caught my eye under IG was adult retail.

MR. ZENNER: And given certain other -- I mean, that may be something that the applicants would be willing to address privately, while the proximity, I believe, to residential would not come into play here due to the fact that it is isolated. I take that back. I believe over in the Mule Barn, those are actual residential lofts, and that could potentially pose a problem. So we would have to look into that from a regulatory perspective. Obviously, the applicant is here tonight. They can give you their perspective of what they want to do and what their long-term intention is, and I would take it you will render a decision from that.

MS. LOE: Thank you, Mr. Zenner. Any other questions for staff? Ms. Kimbell?

MS. KIMBELL: Could I -- could we get the slide back up that shows the zoning.

MR. KELLEY: Yes.

MS. KIMBELL: That would be helpful. Thank you.

MS. LOE: Any additional questions? If not, we'll open up the floor to public comment.

PUBLIC HEARING OPENED

MS. LOE: If you can give your name and address for the record. If you're speaking

for yourself, you get three minutes. If you're speaking for a group, we give you six.

MR. STEPHENS: Hi, there. I'm Jesse Stephens with Crockett Engineering. I represent the applicant, which is White Oak Investment, but the Logboat Brewery. And I think Mr. Kelley did a really good job of explaining what we're trying to do. We had a long discussion about what was most appropriate zoning here for this expansion. We originally talked in concept review about potentially doing M-N with a conditional use, but after a long, lengthy discussion, everybody felt this was the most appropriate way to -- to move forward. Essentially, what Logboat is trying to do is expand their facility on the neighborhood of doubling the size of the production facility. So if you look up on the screen, the three lots that are currently M-N, that's -- that's the bulk of where the new production facility will go. So Logboat, I don't believe the existing building is 35 foot tall. I mean, the new production facility is going to be essentially that height. If you've been out there and you've seen it, expect something similar to what -- to what's out there now. And subsequent to this, we do have a conditional use coming. We're working out some issues related to parking. Logboat also owns a triangular lot that is zoned IG that is closer to the COLT Railroad, which will accommodate more parking, and we'll talk about that when -- in our conditional use. But I'm here to answer any questions or -- and the applicants are here, if you have any questions also for them.

MS. LOE: Thank you. Any questions for this speaker? Commissioner Geuea Jones?

MS. GEUEA JONES: So White Oak doesn't own the entire space that is fenced in that's green space?

MR. STEPHENS: That is correct. The two M-N lots that are not part of this request are owned by a different property owner that Logboat leases lots from.

MS. GEUEA JONES: Ah.

MR. STEPHENS: So they would very much like to purchase those lots, but it is -- maybe someday, but right now, it's --

MS. GEUEA JONES: And you couldn't get --

MR. STEPHENS: Right. Right now, it's not possible.

MS. GEUEA JONES: And you couldn't get permission from the person who does own it to rezone those?

MR. STEPHENS: Right. At this time, no. Yeah.

MS. GEUEA JONES: Yeah. Other than just I would love it if that triangular lot was not -- in better condition. That's all the questions I have.

MR. STEPHENS: That -- you'll be in luck because that's -- it's going to be improved. That's our goal.

MS. LOE: Any additional questions? I see none. Thank you.

MR. STEPHENS: Okay.

MS. LOE: Any additional speakers on this case?

MR. HUNT: Tyson Hunt; I'm co-founder, CEO of Logboat Brewing Company. Jesse nailed it; Brad nailed it. We need to make more beer. We love being in downtown Columbia, and hope that the future of our business keeps us in downtown Columbia. I don't really have much more to add, but I'm here to answer any specific questions that you might have about this request.

MS. LOE: Any questions for Mr. Hunt? I see none. Thank you.

MR. HUNT: Thank you very much.

MR. NORGARD: Good evening. My name is Peter Norgard; I live at 1602 Hinkson Avenue, and I am here as a member of the Benton-Stephens Neighborhood Association, the President, in fact. I'd like to thank Ms. Loe for making all my points for me already. I'll just point out that the zoning change from M-N to IG is an expansion of industrial zoning, which I think we all understand. The M-N buffer that exists between the industrial to the west of this particular location, which is the brewery, is going to go away, which means that R-MF is going to be essentially adjacent to an industrial usage, which I think I have a lot of problems with. Let's see. I think there will be perceived and real negative impacts for the neighborhood, Benton-Stephens to the east. IG expansion will erase or all but erase the green space to the east. I did have a question about, you know, we don't have a plan in front of us to look at and evaluate, so I'm not really sure how they're going to handle stormwater. That's probably something that will come up during their -- their planning, but we do lose the aesthetic buffer that will -- that existed. Let's see. As you point out, there is no height limitation, so although -- in the IG zoning district, so although they may tell us they're going to stick to a 35-foot building height, future developers might not be bound to that if they decide to move on. There are no architectural embellishments required, so we could have a large monolith. And because it is apparently going to be the rear of the building, I'm not sure what implications that has for shipping and receiving, loading dock, truck activity, and things of that nature. So that all could be facing College Street, for all we know. And along those same lines, it looks like from the staff report that because of this light industry use specific standard, up to 20 percent of their operations could take place outside of their building envelope. Given that the City has no measurable standards for noise pollution, I do have concerns for a facility that's going to be dealing with glass bottles and rotating machinery, and potentially having shipping doors neighborhood facing. Will that create a -- a noise pollution issue for the neighborhood immediately adjacent? Also, I recognize that it's not your

responsibility to evaluate traffic patterns and worthiness of the surrounding roads, but with increased heavy vehicle traffic on State and City roads that aren't very well maintained or receive infrequent care, I have concerns that the infrastructure may not be able to support this change in zoning. I was also surprised to hear that this will be coming before the -- before you for a conditional use permit for an expansion of the bar. I think the neighborhood, Benton-Stephens, already has significant parking issues, and we have -- we would have significant concerns about the impact of that kind of expansion. So I feel like these things need to be -- we're dealing with issues piecemeal, and sometimes it makes sense to have all of these issues brought all at once so that we have a clear idea of what their entire and full intent is. So as you point out, zoning changes run with the land, not the owner. If they decide to -- that this is not big enough for them in the future, they may decide to move on, and who's to say that the future industrialist is going to abide by their promises. I would hope that some of you or all of you would oppose the expansion of this industrial zoning district.

MS. LOE: Thank you, Mr. Norgard. Any questions for this speaker? Commissioner Burns?

MS. BURNS: Mr. Norgard, I appreciate your comments. I just didn't know if you were here on behalf of yourself or representing your neighborhood association?

MR. NORGDARD: I am representing several people that spoke to me about this, who could not be in attendance. I'm not speaking on behalf of the entire neighborhood because getting consensus from an entire neighborhood, particularly one that likes Logboat Brewery and lives close to it, it would be challenging, so -- I'm not opposed to Logboat Brewing at all, but I am opposed to this expansion personally.

MS. BURNS: Okay. So this is more personally for you with content from others being -- but not from the Benton-Stephens Neighborhood Association?

MR. NORGDARD: That would be correct.

MS. BURNS: Thank you.

MS. LOE: Any additional questions for Mr. Norgard? I see none. Thank you. Any additional speakers on this case? Seeing none. We'll close public comment.

PUBLIC HEARING CLOSED

MS. LOE: Commission comment? Commissioner Geuea Jones?

MS. GEUEA JONES: Something real quick, and then I'll -- I'll take Commissioner MacMann's spot of making the motion, if that's acceptable. I think this is the opposite of the case we saw before where the bulk of the zoning, if you look at the larger map, it's IG all the way until we get to M-DT. You know, I know that there's Benton-Stephens neighborhood on the other side of the corridor, but really those M-N lots, we've got IG up

to Wilkes, we've got IG down to downtown. I don't know. It seems -- it seems like the outlier is the M-N as opposed to the IG in this -- in this case, and that's -- that's where my head is at.

MS. LOE: I had -- oh. Commissioner Burns?

MS. BURNS: Oh, just -- in hearing the public comments, I'm always supportive of the businesses and the impacted neighbors getting together, and I'd just like to make that suggestion. Mr. Norgard is here and representatives from Logboat, and maybe some assurances can be given or more specifics as far as your site plan or intentions or reduction of buffer. I -- good communication always makes a better project.

MS. LOE: Yes. And picking up on that buffer, I mean, it -- we don't have a site plan. So, I mean, some of the concerns are speculative in that we don't know what the plan is. But picking up on Planner Kelley's comment that the College Avenue side would be the backside of the street, and looking at the dimensional standards for IG, the rear yard adjacent to R district is 20 feet versus the general is ten feet. Would we consider it to be next to an R district if it's across the street from the R-MF?

MR. KELLEY: No. I believe that would be if it was sharing a lot line, that would be in a sense of adjacent to the property. In this, it's adjacent to a road right-of-way is how we've taken that.

MR. ZENNER: It would actually be considered, ma'am, a front yard, since it's a double-fronted lot. So we would apply the front yard setback to the rear yard, what would be --

MS. LOE: Ooh. So that's 25 feet?

MR. ZENNER: Correct.

MS. LOE: All right. That's a little bit more of a buffer. Okay.

MR. ZENNER: And I -- I would like to add, and I have to look specifically to it if it's not accepted out of the Benton-Stephens overlay requirements, but development plans are, unless it's only specifically applied to residential development plans, development plans within the Benton-Stephens overlay aren't required to be reviewed by the -- by the neighborhood association. So there -- there may be an opportunity here -- I can't speak to that directly -- if industrial is accepted. But if it is not, the development plans that Logboat has would still have to be reviewed and so there's opportunities, I think, to discuss some solutions to address screening and maybe some architectural treatment on the rear of the building, so to speak, as it faces College.

MS. LOE: All right.

MR. ZENNER: College is a State road, and I think Mr. Kelley went over this. It's a State road. It's required to comply with all the MoDOT standards for access, so that is

an issue that is out of our hands, but we do not know the final design of the building for shipping and receiving.

MS. LOE: Thank you. Commissioner Placier?

MS. PLACIER: Yeah. That was my question. By calling that frontage along College the rear of the building, it does give a sort of implication that that's where rear functions will be taking place, like shipping and receiving, and we don't know if that's actually going to happen, if that is actually how that area would be used. We don't -- we have no idea unless -- well, I guess that's on down the road.

MS. LOE: As Mr. Zenner points out, it sounds like there will be opportunity for discussion with the neighborhood association which would be welcomed. We have received several communications from neighbors and adjacent property owners supporting the project, so it sounds like Logboat has been a good neighbor, and people are in support of the expansion. Commissioner Geuea Jones?

MS. GEUEA JONES: If we're done, 225 first?

MR. KELLEY: I'll -- I'll bring them back up.

MS. GEUEA JONES: Thank you.

MR. KELLEY: Oh, sorry. I have them in the wrong order. Please --

MS. GEUEA JONES: Five first?

MR. KELLEY: -- do rezoning first. Yes, ma'am.

MS. GEUEA JONES: Okay. In the matter of 225-2021, 504 Fay Street Logboat rezoning -- is that right -- rezoning, I move to approve the rezoning of the property to IG.

MS. RUSHING: Second.

MS. LOE: Second by Commissioner Rushing. We have a motion on the floor. Any discussion on that motion? Seeing none. Commissioner Burns, may we have roll calls, please.

MS. BURNS: Yes.

Roll Call Vote (Voting "yes" is to recommend approval. Voting Yes: Ms. Rushing, Ms. Geuea Jones, Ms. Placier, Ms. Kimbell, Ms. Loe, Mr. Stanton, Ms. Burns. Abstention: Mr. MacMann. Motion carries 7-0, one abstention.

MS. BURNS: We have seven in the affirmative, and one abstention.

In the matter of 225-2021, 504 Fay Street Logboat rezoning, move to approve the rezoning of the property to IG.

Yes: 7 - Burns, Loe, Rushing, Stanton, Geuea Jones, Kimbell and Placier

Excused: 1 - Carroll

Abstain: 1 - MacMann

Case # 223-2021

A request by Crockett Engineering (agent), on behalf of White Oak Investment Properties, LLC. (owner), for one-lot final plat to be known as "Central Addition Plat No. 2-A". The subject site includes 1.08 acres of land located on the northeast corner of Fay Street and Hinkson Avenue. This plat is desired to facilitate future expansion of the Logboat Brewery facility. This request was originally advertised with a design adjustment to Section 29-5.1(c)(4)(ii) of the UDC relating to dedication of right-of-way on Hinkson Avenue and Fay Street which has been withdrawn.

Full discussion of case captured in transcript for Case # 225-2021.

MS. GEUEA JONES: I have another motion. In the matter of Case Number 223-2021, 504 Fay Street, Logboat Final Plat, I move to approve the final plat to be known as Central Addition Plat No. 2-A.

MS. RUSHING: Second.

MS. LOE: Second by Commissioner Rushing. We have a second motion on the floor. Any discussion on this motion? Seeing none. Commissioner Burns?

MS. BURNS: Yes.

Roll Call Vote (Voting "yes" is to recommend approval.) Voting Yes: Ms. Rushing, Ms. Geuea Jones, Ms. Placier, Ms. Kimbell, Ms. Loe, Mr. Stanton, Ms. Burns. Abstention: Mr. MacMann. Motion carries 7-0, one abstention.

MS. BURNS: We have seven in the affirmative, and one abstention.

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

MR. ZENNER: And if I may, before we move on to the next item, just for the purposes of closing the comments that I had just made in regards to compliance with the Benton-Stephens overlay, specifically, within the overlay, it states exempted activities. The IG zoning district is an exempted zone, however, except when new construction is being proposed, which this would include, and it further states it was required to comply with the screening requirements of Section 29-4.4. So we will be able to acquire landscaping treatment along the College Avenue frontage.

MS. LOE: Thank you, Mr. Zenner. Thank you.

In the matter of Case Number 223-2021, 504 Fay Street, Logboat Final Plat, move to approve the final plat to be known as Central Addition Plat No. 2-A.

Yes: 7 - Burns, Loe, Rushing, Stanton, Geuea Jones, Kimbell and Placier

Excused: 1 - Carroll

Abstain: 1 - MacMann

VIII. PUBLIC HEARING AND CONDITIONAL USE PERMIT REQUESTS**Case # 227-2021**

A request by Crockett Engineering (agent), on behalf of MFL Golf, LLC (owner), for assignment of approximately 6 acres of M-N (Mixed-Use Neighborhood) and 115 acres of O (Open Space) zoning as permanent zoning upon annexation. A concurrent request (Case # 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 1800' to the east of the intersection of Highway UU and Van Horn Tavern Road and is addressed as 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 trigger 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.

In the matter of Case 227-21 of 5500 West Van Horn Tavern permanent zoning to O and M-N, upon annexation, move to approve.

Yes: 8 - Burns, Loe, Rushing, Stanton, MacMann, Geuea Jones, Kimbell and Placier

Excused: 1 - Carroll

Case # 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 # 227-2021. The subject property is located approximately 1800' to the east of the intersection of Highway UU and Van Horn Tavern Road and addressed 5500 W. Van Horn Tavern Road.

Full discussion captured in transcript for Case # 227-2021.

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 resummairize 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.

Motion 1 - In the matter of the case 253-2021, move to amend the conditional use amendment to include laser tag as an existing activity as requested. Voting YES: Rushing, MacMann, Geuea Jones, Placier, Kimbell, Stanton, Burns. Voting NO: None. Motion passes (8-0)

Motion 2 - 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 as amended. Voting YES: Rushing, MacMann, Geuea Jones, Placier, Kimbell, Stanton, Burns. Voting NO: None. Motion passes (8-0)

IX. PUBLIC COMMENTS

MS. LOE: Any additional public comments? Seeing none.

X. STAFF COMMENTS

MR. ZENNER: I'm getting there.

MS. LOE: We knew you wouldn't let us down, Mr. Zenner.

MR. ZENNER: Of course not. I can't let you down. Your next meeting is going to be on September 9th. It will be just as lengthy, maybe as entertaining, so, you know, we'll feed you an even heavier meal this time, so you fall asleep.

MS. SMITH: I think it will be a little bit shorter.

MR. ZENNER: We do have a series of projects, as I just alluded to, and they will be as follows. So there you go. There are eight additional projects that we can discuss. However, one of them is proposed to be tabled in the future. We are just alluding to that at this point. A number of these project have been put off, and they are coming back now. Their time has come that we will discussing them. Projects of some significance that you may be interested in south, Old Highway 63. This is the former U.S. Rent site at the corner of Stadium and Old Highway 63. It has the area of the cliff associated with along Stadium Boulevard. The project proposed to be requested for tabling is the major amendment for the Sonic down at Buttonwood and Grindstone Parkway. We have an ATM proposal across the street from us here at EatWell in the parking lot. That is a CUP request. And then we have a request up at Center State to take the Old Ruby Tuesday site from PD to CP. The highlight project, if I would even say that, is the last project that you see here, 256. That is a consolidated request to rezone 11 parcels at Corporate Lake to varying zoning classifications in which to clean up split-zoned property, as well as just contemporize the zoning there to match more up with the existing land uses. So to look at your projects in pictorial form, our two platting actions, our first two platting actions that have been previously tabled, the platting action off of Old 63 and Stadium there, and the -- okay. And then you've got our Buttonwood project, which is the one to be tabled again. Our condition use for the ATM there, just in front of EatWell. That is subject to the MDT design standards, and we'll have a detailed report on it. The Vandiver Drive one, which is the Old Ruby Tuesday site out just to the south of Menard's. And then the highlight of the evening is this graphic, which represents 11 individual rezoning requests. We have requested that this project be submitted separately in order to be able to aggregate the vote to each individual project. The applicant chose to submit it in one. We will aggregate the vote in the staff report, because each of the proposed rezoning requests will need to be voted on independently. They may all be covered in

one ordinance ultimately, but we will need to have a separate vote on each, which means if you choose to deny any one of the 11, you can, and it does not affect the remainder. So it would have been much cleaner for us to have been able to have had them individually, however, this is how the applicant chose to present it. This evening you received your first installment of commission education 101. We will have certificates for you later. And we are going to be getting prepared for the end of September, which is when you hold your regular elections. We will be using that last meeting of the month in order to do annual Commissioner training as it relates to the Sunshine Law, and any other issues that Ms. Thompson and I identify as being relevant. We will probably be coming back with a little bit of an update on some short-term rental discussion at your next meeting. Very stimulating to have before another six-hour Planning Commission meeting, but we might as well tackle that bear when we can. With that, I thank you very much for your attention tonight. I have won the under-over. I said we'd be done by 11:00, and we are 18 minutes over. So, again, thank you for your attention.

MS. SMITH: We're playing Price is Right rules.

MR. ZENNER: Oh, yeah. Well --

MS. LOE: It's not fair when you have the last word, Mr. Zenner.

MS. GEUEA JONES: Coffee, again.

MR. ZENNER: Not the last word.

MS. LOE: True.

XI. COMMISSIONER COMMENTS

There were no comments from Commission members.

XII. NEXT MEETING DATE - September 9, 2021 @ 7 pm (tentative)

XIII. ADJOURNMENT

MR. MACMANN: Move to adjourn.

MS. GEUEA JONES: Second. We had several seconds.

MS. LOE: Commissioner Geuea Jones.

(Off the record.)

(The meeting adjourned at 11:20 p.m.)

Move to adjourn