

ESCERPTS  
PLANNING AND ZONING COMMISSION MEETING  
COLUMBIA CITY HALL COUNCIL CHAMBER  
701 EAST BROADWAY, COLUMBIA, MO  
DECEMBER 20, 2018

**Case No. 24-2019**

**A request by Engineering Surveys & Services (agent) on behalf of Hamlet Limited Partnership and Joseph Tosini (owners) for approval to rezone 45.2 acres of property from PD (Planned Development) zoning to 3.31 acres of M-N (Mixed Use-Neighborhood), 21.53 acres of M-C (Mixed Use-Corridor), and 20.3 acres to R-MF (Multiple-family Dwelling) zoning. The subject site is located at the northwest and southwest corner of Scott Boulevard and Smith Drive.**

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

Staff report was given by Mr. Clint Smith of the Planning and Development Department. So staff's recommendation, after all of that, is that the R-MF and the M-N zoning that they have requested would be appropriate in this situation. We do not feel comfortable with an M-C designation though so we'd be recommending denial of the M-C. So I would be happy to answer any questions. There was a lot of material in there. I didn't touch all of it. I'd be happy to try and fill in the gaps if need be.

MS. LOE: Thank you, Mr. Smith. Before I ask for Commissioner questions, I'd 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 this case in front of us. Ms. Rushing?

MS. RUSHING: I had breakfast with a friend who lives in I believe an adjacent neighborhood and she attended the presentation at Shakespeare's and she basically just talked about that presentation in her understanding of what the development was going to consist of. She indicated that the point of most concern that she noticed among other individuals there was the possibility of a gas station and then she said that she and her husband decided it didn't matter because they lived too far away and they wouldn't be affected by it.

MS. LOE: Thank you, Ms. Rushing. Anyone else? Mr. MacMann?

MR. MacMANN: Several weeks ago I went to speak with Council Person Thomas. Thank you for joining us here, and afterwards I did speak with him. I also spoke with Mr. Farnen. Just for the record he was a in a very impassioned long, and I don't know the details, conversation with one of the residents who was expressing their concerns and I was waiting to talk to Mr. Farnen about another matter. I did ask him what he was talking about and it was this. I don't know any of the details. But we did talk. Thank you.

MS. LOE: Thank you, Mr. MacMann. Anybody else? Seeing none, are there any questions for staff? Mr. MacMann?

MR. MacMANN: Thank you very much. Two UDC clarification points, Planner Smith. The articulation distance on R-MF is 75 feet; is that correct? Or Mr. Zenner or whoever can remember? I don't have the code right in front of me. The other question would be the max length of an R-MF building is 200 feet. That's correct also, is it not?

MR. SMITH: That does sound correct.

MR. MacMANN: Our discussion was 100 and 200. We settled at two. I think articulation maximum is 75. Someone may be wanting to know what these buildings could look like.

MR. SMITH: We'll look at it. We'll get back.

MR. MacMANN: Thank you.

MR. ZENNER: The total length of the primary facade is 200. As Mr. Smith pointed out, it is use specific standard 29-3.3(dd). So facade length and articulation is what this is covered under. Total length of any multi-family primary facade shall not exceed 200 feet and no facade wall shall extend more than 80 feet horizontally without projections or recesses of at least 3 percent of the length of the facade and not extending -- and extending at least 20 percent of the length of the facade.

MR. MacMANN: So rather than 75, it's 80?

MR. ZENNER: It's 200 and 80.

MR. MacMANN: Thank you, Manager Zenner.

MS. LOE: Any additional questions for staff? Mr. Smith, I had a few grab bag questions just based on some of the comments I had read quickly. The internals east-west street I notice in the old plan it sort of jogs and in the new plan it appears to go more straight through. Was that a staff recommendation or did the applicant make that change?

MR. SMITH: The connection I'm guessing you're talking about is the connection between Stone Valley and Day Spring.

MR. ZENNER: Faurot. That's the Faurot extension.

MS. ZOE: Faurot extension all the way up to --

MR. SMITH: The timeline of that I think is best described as I think the original design did not include that connection. Part of this process is the applicant was required to submit a traffic impact study.

MS. ZOE: That was going to be my follow up.

MR. SMITH: Yes, and I talk about that more in the preliminary plat. I think we're going to talk about that within this case as well because what it did was recommended, highly recommended that that connection be made to basically provide an extra network connection to that adjoining collector. Stone Valley is a collector. And Stone Valley is on the major roadway plan to extend to the north and connect to an extension of Broadway that would go west. Neither of those are on the CIP plan right now as of today, but the rationale there is that as a collector a connection there would provide another basically street network access point for traffic coming into and out of the commercial development. So if there was no connection within this development, given the existing development to the north there would be no

connection to Stone Valley on the east side of it all the way between Smith Drive to the south and Broadway to the north thereby really reducing its effectiveness of dispersing traffic as it would be initially designed to be. You basically reduce the amount of ingress and egress points to the site which would basically funnel all that traffic onto other streets. It would reduce kind of the connectivity benefit of having that connection through street.

MS. LOE: Thank you. Is this property located close enough to a school that there's any restrictions on businesses that could be allowed under the zoning?

MR. SMITH: Yes. I believe the property to the north would be considered a school. Like it is a school. There are some use specific standards that might restrict some uses in proximity to schools. I would have to review those to find out which those would be. Generally you would expect those to be possibly adult oriented type uses. I'd have to look at the specific standards to know. I can check on that while we're discussing.

MS. ZOE: Is there a difference in store size between M-C and M-N?

MR. SMITH: There is. That's a great question. Kind of one of the distinct differences between the M-C and the M-N is is a limit on individual commercial space. And Mr. Zenner, correct me if I'm wrong, you might grab this while we're sitting here but I believe in an M-N no single commercial space is allowed to be greater than 15,000 square feet, I believe, with the possible exception of a grocery store which is generally considered to be kind of an anchor tenant. It can be up to 45,000 square feet. When you go to an M-C district, those numbers go up to -- there may not be any restrictions once you go through that. That is kind of the hallmark of the M-N is that limited scale and footprint that would be restricted in an M-N versus not restricted in an M-C.

MR. ZENNER: For the purpose of clarification, Mr. Smith is correct. 15,000 square feet on a single tenant. 45,000 square feet on the grocery store. However, that is a tenant space. So you could have a building that has multiple 15,000 square foot tenant spaces and a 45,000 square foot grocery store. There's not a restriction on the maximum footprint of the building. It is just the square footage of the individual tenant spaces. As Mr. Smith pointed out, there is no restriction as it relates to any square footage in the M-C zoning district.

MS. ZOE: Thank you. Any additional questions for staff? I see none. In that case, I'm going to open up the floor for public comment. We're going to follow the same rules that we've been enunciating all evening. When you come up to the podium, please give your name and address so we have it on the record. If you are speaking for a group, we'll allow you six minutes. If you're an individual speaker, you get three minutes. With that, we'll open up the floor.

#### **PUBLIC HEARING OPENED**

MR. KRIETE: Good evening. I'm Matthew Kriete. I'm with Engineering Surveys and Services, offices at 1113 Fay Street, and the civil engineer on the project. So to begin with, comment in the staff report about this applicant being Joseph Tosini and some of his agencies. Keep in mind this is the

contract purchaser on this. The applicant truly is the current landowner by rule here, but THM Construction is the applicant and, you know, you are looking at a local developer here. So what I want to talk about here, I want to do a lot of what Clint did. So I'm going to try to go through it pretty quickly so we don't regurgitate the same information but talk about a comparison between the PD and UDC, the potential development that we might have here and talk about the appropriateness of the zoning. First off, I think Clint showed this that effectively we have a little less residential space, a little more commercial and the office space really kind of got rolled into the commercial. Here's the plan you've seen already, gray being the residential, the light green being the M-C, the darker green being the M-N zoning. You can see Scott Boulevard on the bottom going north-south to the signalized intersection at Rollins, Smith and Scott Boulevard. You know, so what is supplying in the UDC. In the comparison to the plan districts that currently holds the zoning on it -- first off, UDC didn't exist in 2000. We're a long way from it. The UDC was created to address a lot of concerns I think that have been created out of the plan districts as well as goals of the comprehensive plan. So items you note in the comprehensive plan being concerns and adjacency and such have been addressed by the zoning. These are some in particular with the neighborhood protection, specific use, transitional screening, lighting. Just, for example, here's your question on the R-MF zoning. I'm not going to read this, but I just want to look at mass. This is the apartment restrictions. What I've highlighted are all new restrictions compared to what's on the current PD plan. There is your next page. Many of the uses have the same type of restrictions. So you're going to see that. In the packet, I provided a list. I highlighted all those differences. I did the same with uses, highlighted the category, highlighted those that were allowed. You can see them, hopefully the best comparison of what applies there. Also, we have concerns about the transitions from the different uses. Again the UDC. According to the UDC itself, the purpose of it is to provide visual buffering from streets, potentially incompatible land uses that generally enhance the quality and appearance of a development. Here's where we are. We'll talk about concern with the transition. The UDC has been written to address this. In the old code, we didn't have those protections. Things have changed. There's standards out to make that transition more palatable. So we talked about an 80 percent opacity buffer. I apologize for bringing you palm trees as an example. I could not think or find an example of this in Missouri. Our restrictions are pretty heavy. This is an example of an 80 percent buffer. To your right is Universal Studios. Obviously this is pretty mature. We're not going to have palm trees. I'm not promising palm trees. I want to give you an example what we're talking about of what an 80 percent opacity buffer looks like. This is what we're talking about. This is more of a buffer than a little berm is going to be. So in addition, landscaping. We now have requirements of street trees. Those weren't in the PD, weren't in the old zoning code. We had more requirements of interior landscaping, lighting. We're allowed 40-foot tall poles in the old PD plan. Now 28 foot max. We were allowed to have two foot candle at the property. That's pretty bright. Now the UDC is half a foot candle. Again in comparison what might this look like. We created a concept plan for this and I think disclosing things like the opportunity of having a filling

station and intense uses, banks, restaurants. That's what's shown on our concept. In comparison you can see unit counts fairly similar to what was on the PD plan. Actual square footage of retail goes down. Parking is quite a bit down. In fact, what was the minimum in the PD plan is actually in many cases the maximum in current code -- in the UDC. This is the concept that was shown and has been shared I think with residents around the area. Again, we're assuming, this is what we used to assume the traffic study. We've assumed the most intense use of the development being set up in that way so that the infrastructure is being accommodated properly. Here's a few pictures of what have been created what this might look like. Kind of looking in the center you're looking at Faurot and Scott, kind of looking southwest. You can see the residential on the right side, retail on the frontage on the left side. This is up looking from Smith in northward. You see again the residential in the back side, the commercial development in the interior and this is the corridor preservation area we're referring to in the plan.

THE COURT REPORTER: Sir, I'm really sorry but could you slow down a little bit, please.

MR. KRIETE: I apologize, ma'am. I'm sorry. So from the appropriateness of the zoning, again the UDC. This is new. We didn't have it in 2011 -- or 2001 when the plan was approved. The location, again, I believe this is a proper location. You look at the comprehensive plan. You're along an arterial street. The intersection signalized, you've got an approved roadway. Again, I think we're meeting also the comprehensive plan goals in the UDC. Again, as I say, '99, it didn't exist when the original zoning was set. There's a lot more protections in place now. I think we've learned a lot by the shortcomings that came with the old code and have worked that in to the new UDC as well as the goals of the comprehensive plan. It's noted in staff report. You know, the plan district was used to cover those shortcomings. The landscaping is more required along the street frontage now, and the adjacent residential uses will have more buffering than again what the code had before. The Windermere intersection again, there's a highlight of a major arterial and the collector roadway. Again, this is, as I said, this could be a good use for it. That's where we're at. We've got high visibility. We have high traffic area. Again, appropriate use. We're in the urban service area. We're not annexing. We're not on the perimeters. We're not trying to bring in areas that have to be extending the city services. We're here already. The utilities are in place. The police and fire already serve the area.

MS. LOE: Mr. Kriete, I need you to wrap it up. Thank you.

MR. KRIETE: I had to slow down.

MS. LOE: You've gotten some extra time.

MR. KRIETE: So I'm going to just kind of click through some slides again real quick. I won't go through all of them. Again, we're in conformance I think with what was initially on the comprehensive plan. Each of the goals we've met. I've highlighted points of which that I believe this property is meeting. And these are all the five goals here. So from mobility, connectivity, environmental sensitivity, they've been met and even economic development. No single development can ever meet all the goals. I think we've been good at meeting the overarching goals that were met. With that, I'd be happy to answer any

questions you might have.

MS. LOE: Are there any questions for the speaker? Mr. Stanton?

MR. STANTON: Sounds great but I didn't hear anything concerning neighborhood interaction in your presentation.

MR. KRIETE: I'm sorry. Mr. Farnen will be speaking to that in the next after me, but there has been quite a bit of neighborhood interaction.

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

MR. KRIETE: Thank you.

MR. FARNEN: Good evening. My name is Mark Farnen, 103 East Brandon. I am appearing on behalf of THM Construction who is the potential purchaser of this land and will be responsible for the build out and management of this project. We have approached this project within the context of the new code and tried to follow those rules in this transitional time when we're trying to go from old plan or go home -- old plan or go home to the new code. And that's what we think we've done. In terms of the interactions with neighbors and our notification and what we did, I think that when they sent out notices for this meeting there were about 70 that were sent out by the city. We sent out 1,800 invitations to people to either attend open houses, informational meetings or visit our website which we created to disseminate information about this proposal to anyone that wanted to look at it, whether they came to a public meeting or on their own. We hosted four separate meetings for neighborhood groups, met individually with some interested neighbors and with Christian Fellowship school and church, attended meetings hosted by the city and the fourth ward council member, created a website as I mentioned where people could access information or comment on it to us. We also engaged in back and forth discussions with staff relating to provisions of the code and a draft development agreement assigning responsibility for infrastructure upgrades and who would pay for it, and most of the time guess what, we paid for it. We have tried to remain flexible in these discussions. Here are some examples. Originally, we believed that stream buffer rules would not apply to the small blue line stream that was drawn on the map because there was no water running through it. When we talked to the staff, they said no, the new rules say you have to protect that. So instead of trying to get around it, what we did is incorporated and you saw one of the earlier pictures where we have a stream feature that runs right through the middle of the project now. We also incorporated that into the detention that is up on the southwest corner of this project that will we believe be used for senior living purposes. We made that change and we activated the stream. We have offered to work with the school to resolve an issue about an encroaching soccer field that they have on this property right now. We think we've got that worked out to their satisfaction and we believe we have a way to do it if we get control of this property. We have offered to work -- We support the petition by area neighbors to install speed calming devices on Smith Drive, something that they had independently done and asked who would be their advocate and we said we would be. We have agreed to the installation of various bike lanes, pedways, sidewalk completion projects in this area. We have agreed to all buffering

and all road improvements and projects identified by our traffic study or by the code. One road in this project caused a lot of heat and a lot of friction and it's unusual. That's the extension of Faurot Drive on the north part of our project that Commissioner Loe asked about. It does make sense in terms of the new code because it fulfills the idea of connectivity and it solves the problem about block length on the north side of our deal. We had one of those public meetings and we did a straw poll. I realize this is only anecdotal, but when we took the poll it was 38 to 1 to 5 against building that road by the neighbors. 38 and the 5 where they didn't care. 38 said they don't want it, 1 said they did want it and 5 said um. That is only anecdotal. So why don't we just take it off of our plan. It's because the staff and the city and the rule is 100 percent in favor of this. They said that you need that road for a variety of reasons. We understand that. What we didn't want to do was put a bunch of exceptions in this plan. We wanted to turn in a clean plan that meets the new code and it's kind of a test I guess but this is what we tried to do. So we didn't ask for any variances, no design modifications. It's probably the first time you've ever seen anything come in without that. So we drew it in, but we stated publicly to the neighbors we are in 100 percent agreement with them that if we didn't have to build this we won't. And if we're not forced to we won't and we would support them in their effort to say no to it and you have that power, not us. So if you want to, you can make a comment about that. Finally, we turned in a plan for this area than was more expansive than what we should have had to do. In other words, we gave you a detailed plan and that's where it really gets picky and people start to pick it apart. Some people are for a grocery store in this area. Some people are opposed. Some people are for it but only if it's a Trader Joe's or Lucky's but they don't want that other brand. We can't guarantee that. We can't deliver that. And we knew that we would get into that type of thing or oh, I wouldn't mind having a Wendy's there but I sure don't want a Hardee's. We can't make those guarantees, but we can say here are general uses that we think are appropriate. We looked at the exact same report that the staff did and the exact same facts and figures that the staff did when they made their report and we just came to a different conclusion based on the same set of facts. They said that M-C is not appropriate here. We think it's exactly appropriate. This is not the Columbia Mall. It is more of a marketplace scale. It does have one anchor that's about 40,000 square feet. It does have businesses that are accessible and useful to the neighborhood and it takes advantage of a road that the city intentionally widened that carries 23,000 people a day on it and that would be beneficial to us and we think that we're less of a deal. I have two other people that we have invited here tonight: Denise Heintz from O'Reilly Development Company, that is who is doing our senior housing, and George Eble from Western Oil who knows all about the convenience store industry and if you'd like to hear from them they would be happy to come up and share their thoughts and answer questions. I would be willing to do that too. We are asking for your consideration and your approval of our original request the way we wrote it and hope you will agree with that idea.

MS. LOE: Thank you, Mr. Farnen. Are there any questions for this speaker? I see none.

MR. FARNEN: Thank you for your time.

MS. HEINTZ: Good evening. My name is Denise Heintz and I'm a partner with O'Reilly Development Company. The address is 5051 South National, Springfield, Missouri. As stated earlier, we have a portion of the property under contract contingent upon receiving the appropriate zoning to do a continuum of care senior community. Pat and I started O'Reilly Development in 2013. However, we have over 30 years of combined real estate development experience. We do historic preservation, new construction, multi-family, affordable, and our priority is continuum of care senior communities. We have already gone through the certificate of need process with the Department of Health and received an approval for our proposed project which will be 152 units, a combination of 90 independent living, 44 assisted living and 18 memory care units. We have under contract approximately nine of the multi-family proposed zoned property and it will be around a \$34 million project that we will bring to the community which will include 65 full-time positions and a total of 75 jobs the remainder in part-time positions. I'm happy to answer any questions about our proposed plan. It is contingent on a favorable outcome of their rezoning request. These pictures just show a little bit of flavor examples of what we do. All of our communities are approximately the same size, and so this gives you an idea of what they look like and how they blend with the single story moving up to the multi-story it blends very well with the residential homes that surround it. If you have any questions for me, I'd be happy to answer them.

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

MS. HEINZ: Thank you.

MR. EBLE: Good evening. My name is George Eble. I'm the owner of Western Oil. I'm considering a convenience store here. Our name of our stores are Petro Marts. We have some in Columbia. I've been in business for 55 years with my big boss, my wife, and my son. So we've been in this for a long time. I wanted to come here this evening because I knew there may be some questions about the convenience store. So I wanted to be here to answer anything you have. We have some stores in Columbia. And our design will be similar to what we have. I have a rendering here tonight if you want to see it. I'd be glad to answer any questions you want about the store that I can help you with.

MS. LOE: Thank you, Mr. Eble. Were there any questions for the speaker? I see none at this time. Mr. Zenner, are you looking for the rendering?

MR. ZENNER: I'm trying to load the power point.

MR. EBLE: Thank you. This is what it looks like. I'll put it down here. Thank you.

MS. LOE: Thank you.

MR. WIEDMEYER: Good evening. Thank you for the opportunity to present. My name is Chuck Wiedmeyer. I live at 202 Haywood Court, and I am the president of the Stoneridge Estates Homeowners Association. I'm here representing 139 households in the neighborhood that sits directly west from the planned development. We learned of this development approximately October 6, 2018, after a homeowners association meeting. We've been monitoring this property for many, many years to see if it's been sold or if there's been any plan developments. Up to this time there has been none in the 18 years



that I've lived at this neighborhood. Mr. Farnen is correct, they've reached out to our homeowners association. They did give us an informational meeting at Shakespeare's. They met with us privately. They met with our homeowners association. The homeowners association board has met with Ian Thomas. We've met as homeowners, and I bring to you collective concerns. Also, we have reviewed quite a few documents and I've distributed many of those documents to my neighbors and I bring these concerns to you. Some of our major concerns is traffic as you can imagine. We all live in that neighborhood and we know what it's like to get out on Smith on a rush hour. It's logical to say that if there's an increased development there there's going to be increased traffic. Also we have a development west of our neighborhood which is the Breckenridge Development which has many, many single family homes and only one way in or out of that development is through Smith. Smith we believe doesn't have the infrastructure to handle all the traffic that's going to be created by this. We've been presented with a traffic study that says there will be a modest increase in the traffic. We could believe that or we could live it. And so those of us that have to get out on Store Valley Parkway or Silverthorn or Louisville are going to have a more difficult time. They have agreed to more traffic control measures, but we will see it -- we'll believe it when we see it. Right now we live in a very quiet low traffic neighborhood and we like it that way. Everybody in this room would like it that way. If you connect the road from this development to Stone Valley Parkway, our traffic increases and our walkability and our neighborhood decreases and there's a major safety concern. It's kind of ironic that we've asked for more walkable neighborhoods and here the city wishes to put in a drivable street through this neighborhood. It's inconsistent. The other thing that's very concerning for us is duplication of commercial services. Mr. Smith has pointed out that there's commercial services within a mile and a half or a mile radius of this development. There's a proposed gas station and a convenience store, and I want to stop there and say that these homeowners are adamantly opposed against a gas station and convenience store. It brings an element of crime. It brings an element of increased traffic. So we're adamantly opposed to these being put on that property. Also we've been told that there might be a bank, restaurants, small grocery store, specialty shops and professional services. If you go a mile one way or another there are two gas stations, two convenience stores, three banks, multiple restaurants, drive thru and sit down. There are two large grocery stores. There's specialty shops. There's two Starbucks, two Starbucks within a mile of us. There's professional services as well. The other thing that was brought up by our homeowners is the Cherry Hills development. The Cherry Hills development has open office spaces and it's never been able to sustain a restaurant, and we've asked the developer what's different between your property and Cherry Hills and they said well, they did it wrong. And I'm sure at the time when they developed Cherry Hills development they thought they were really doing it right. So we're really concerned about the duplication of the services and especially since we have services at both ends of our association. Columbia has been growing about 2 percent per year. If you go down to Shakespeare's West, you'll see that half of the office fronts are empty. That shouldn't be. Our concern is if you build this development and you have a

decrease in the amount of people that want to come to this development you're going to have empty spaces. What we're left with is an empty esthetically pleasing eyesore. You can't take toothpaste and put it back in the tube. So that means if they develop it and it sits empty we are set with it. The developer, I believe him, he's a trustful man, but he could move on and these are our permanent homes. So we respectfully ask that you deny rezoning of this property because the current owner moved into this development -- this rezoning about 18 years ago and the ownership hasn't changed on this property. If you do feel the need to go to the UDC, we request that you approve the R-MF and the M-N but deny all M-C according to the recommendations by the city. I thank you very much for your time.

MS. LOE: Thank you, Mr. Wiedmeyer. Were there any questions for this speaker? Ms. Russell?

MR. WIEDMEYER: Yes, ma'am.

MS. RUSSELL: Hello. If this does not go into this property, what recommendations do you have for this owner to be able to sell this property?

MR. WIEDMEYER: That's not for me to decide, ma'am. The owner is obviously trying to sell the property and he is bound by the zoning right now. He entered into that agreement many, many years ago. It's up to him to decide what he's going to do with it, how he's going to sell the property.

MS. RUSSELL: Do you know if anybody else has gotten together a group to purchase that property to make sure it stays the same?

MR. WIEDMEYER: No, ma'am, but if we win the lottery, we would buy it.

MS. RUSSELL: Say again?

MR. WIEDMEYER: If we win the lottery, we would buy it.

MS. RUSSELL: I understand that.

MR. WIEDMEYER: Because we enjoy the buffer. Thank you very much. Yes, sir.

MS. LOE: Any additional questions? Mr. Stanton?

MR. STANTON: Good evening. You brought up some very good points. What is a win-win situation for both the existing residents and potential owners in developments of this property? You kind of understand both sides.

MR. WIEDMEYER: I understand.

MR. STANTON: If you owned this and you wanted to do something with it --

MR. WIEDMEYER: Absolutely.

MR. STANTON: Where can we find common ground? We're talking walkability. We're talking traffic.

MR. WIEDMEYER: Yes.

MR. STANTON: If the shoe is on the other foot, what would you recommend?

MR. WIEDMEYER: I understand. I'm fully in favor of the developer earning a living. That's a common. We all want to earn a living. What would we would ask if this is developed that we have less access to our neighborhood and have an appreciable buffer and then also improvements to Smith

Boulevard that would decrease the traffic or traffic slowing procedures put in place and also there be some infrastructural changes for bike and walkability. That would be my recommendation for a win-win because I don't begrudge the developer for wanting to earn a living, but I'm bringing to you concerns from our homeowners.

MR. STANTON: Do you feel like it's been a two-way street as far as your neighborhood's input and the developer receiving that input and taking into consideration or does it seem like --

MR. WIEDMEYER: Yes. They've been responsive. They've been mostly transparent of what has transpired. I'll give you a few examples. It was asked in the meeting that we had with the developer what could happen on a particular portion which is on the corner of Stone Valley and Smith and it said there may be an assisted living facility there, may be, and by some sleuth detective work by one of our homeowners we found that what they talked about with the Columbia Senior Living, the signed contract, that was back in October 20. I know that it's not a done deal on the contract. However, it would have been nice if they said listen, we have this put in place and we have a tentative contract and here are the plans for that particular area. Also, in our initial meetings with the developer we asked are there any property or any commercial entities that you have planned for this. We were told no, there were none because, A, they don't own the property. I understand that. But we've learned from the city that they do have some commercial entities that have agreed to be into this property. I think the developer can answer that, but that's not being fully transparent in my opinion and some of my neighbors have expressed that. But for the most part there's been a dialog between them. They've been very responsive to our questions. I appreciate that they included us in the process of interacting with them and that they were willing to come forth and meet with our homeowners, some of them as you can imagine quite hot.

MR. STANTON: Thank you.

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

MR. WIEDMEYER: Thank you for your time.

MS. LOE: Mr. Smith?

MR. SMITH: Just a point of clarification. The previous speaker did mention about learning about some commercial activity from the city. I'm not aware of any commercial activity. I haven't relayed any knowledge of commercial activity that's planned for this site right now. He may have spoken to someone else. It wasn't me. I just wanted to point that out.

MS. LOE: Thank you for that clarification, Mr. Smith.

MS. NELSON: My name is Allison Nelson. I live at 4106 S. Wappel Drive. I'm speaking as the representative for the Rothwell Heights Neighborhood Association tonight. If this rezoning is approved, our understanding is the developer can put anything on the property that complies with the UDC without seeking public input or having to go through the process like this. We would like to see the developer work with neighbors more before any zoning is approved so that we could talk more about our concerns about specific elements and see what the developer might be willing to do to make it more agreeable to

us as a neighborhood. As we are here tonight, we are opposed to the zoning request as it is stated. The elements of the preliminary plat that concern us the most are the biggest and very top of our list is the convenience store gas station, and then close behind that are the multiple fast food establishments with drive-thrus as we understand they'll have and a likely 24-hour pharmacy that would be on the property as well with a drive-thru. The concept we've been shown shows these businesses right along Scott Boulevard directly across from Rothwell Heights. We're right across Scott Boulevard. And many of our residents in our single family homes have a direct view of these businesses. Especially if you're going down Rollins, those residents have a direct view of what would be the convenience store and gas station. As we understand, these businesses would have 24-hour lighting and would be visible to homes in our neighborhood blocks away. This is a concern to us. We feel it would really change the character and aesthetic quality of our well established neighborhood. The developer has spoken with people in our neighborhood quite a bit. He has presented this concept as upscale in a walkable community as he describes it. And we feel that regardless of the type of materials that are used on the building or regardless of what lighting and sign requirements there might be, a convenience store or gas station, fast food is not upscale as we would see that. And given the large number of businesses that would have drive-thrus in the development, we also don't see that the goal of walkability would be met. What we see is people driving in their cars to the development, using the drive-thrus and then leaving. And another concern in our neighborhood is that there would be increased traffic in our neighborhood due to this, and our association does not believe that our neighborhood as a whole would walk across Scott Boulevard to use these businesses. We would have to cross multiple lanes of fast moving heavy traffic to do so. So we don't see that as something that our residents would use. I do want to address for a minute the buffer or lack thereof between these businesses and Rothwell Heights. I know that I think Mr. Smith mentioned that there is some R-2 housing between the development and Rothwell Heights, but I do want to point out that there is one single row of duplexes and that is this R-2 housing that would separate this big commercial development from our homes, from our single family homes, and we do not think that that is anywhere near close to enough of a buffer or barrier between our neighborhood and this commercial development. I will say that some of the people who commented before me talked about interactions with the developer. We do not feel like he's moved really anywhere as far as listening to our specific concerns, in particular regarding the gas station and what buffers or barriers he might be willing to do there. He volunteered to maybe plant a tree in someone's yard to block the view. We just really think that that's not going nearly far enough in what they're willing to move a little bit to make something more reasonable to our community. I will say under the planned zoning the berm that would be required on Scott Boulevard is a lot more what we envision as some kind of barrier between ourselves and any kind of development that might go there. When I heard that, that seems to me to be something that would be more reasonable. And also I do want to talk about the barrier a little more because that's very important to our neighborhood. The first gentleman that spoke showed a picture of very, very, very tall trees that

are big enough to block Universal Studios. Everything we've learned from the developer is that is not an accurate portrayal of what would be there, and that's the feel we've gotten through the process from the developer. We've gotten a feel that they're trying to make this look like a beautiful concept that everyone should love and then showing pictures like that is I think consistent with that because they've made it clear you have to see the gas station, you have to see the fast food restaurants or there's no use placing them on that road, and so I just want to point that out that it wouldn't be trees that tall which I think we would think might be a good idea so maybe they should. I appreciate the opportunity to talk, and if anyone has questions I'm glad to answer them.

MS. LOE: Are there any questions for Ms. Nelson? I see none. Thank you.

MR. GARDEEN: I'm James Gardeen. I live in the Stoneridge area on Samantha Court, 4705 Samantha Court, and I believe Mr. Wiedmeyer has fully represented what our neighborhood concerns were. I just want to add to it we're just three houses down off of Stone Valley Parkway. We're concerned about the traffic there and the traffic getting off of Smith. Then if it was extended in the north to Broadway, traffic is going to increase even more. And then I believe the gas station on the corner is going to add more traffic on Smith and add to the congestion that's located on that corner and I'm sort of in favor of the old plan limiting the density of the residents living or multi-family units there. If the new development can keep the density down, that would help as well. And I also agree with the Breckenridge development and people -- those houses haven't all been developed yet. When they are, it's going to add more traffic onto Smith. My main concern is the traffic. We walk our dogs there everyday along the parkway, and so on. Just one added comment. I asked my wife who couldn't be here tonight, and also I don't represent some of the neighbors that I've talked to, but my wife said what would she add, she said think of the birds and the animals there and the trees, and so on. And she likes to feed the birds.

MS. LOE: Thank you, Mr. Gardeen. Are there any questions for the speaker? Mr. MacMann?

MR. MacMANN: I don't have a question for the speaker. I needed to just quickly ask Mr. Smith a question before I took the next speaker's time if that's okay.

MS. LOE: All right. This is a question for staff?

MR. MacMANN: I have a question for staff.

MS. LOE: Thank you.

MR. MacMANN: Planner Smith, what's the CIP status of the traffic lights on Scott in this location? Do we know? Or near Scott or Smith?

MR. SMITH: They're currently installed now. There's traffic lights there so they're not part of any type of CIP project. And we've referenced the traffic study. That's been brought up a couple times tonight. Some of the specific recommendations in there was to handle the increase in traffic would be to install some additional left turn lanes eastbound, left turn lanes from Smith going north onto Scott and that is going to require basically the widening of that intersection onto Smith and it's going to require the moving of some of the infrastructure right now for that traffic light and retiming. So that is part of those

traffic study requirements that the applicant will be required to construct. So in that case, yes, there is some traffic light work that's going to be required, probably going to have to do some work on the other posts too just because of the configuration of that intersection but it's not fully designed right now but that was the anticipated outcome per the traffic study.

MR. MacMANN: Thank you. I just wanted to clarify that. I appreciate that.

MS. LOE: Ms. Russell?

MS. RUSSELL: Mr. Smith, I just want to confirm that the cost of that intersection improvement is the applicant's?

MR. SMITH: Correct. So we are -- Well, I would say that that be the recommendation that we will take to council. Those improvements are going to be placed into a development agreement. That will be part of this request when it goes to council that those traffic study recommendations be required to be installed by the applicant. If council approves that development agreement, then yes, they will be responsible for that construction.

MS. RUSSELL: Thank you.

MS. LOE: Any other impromptu questions for staff?

MR. MacMANN: While we're here. I'm sorry. I'm terribly sorry but I need to clarify this.

MS. LOE: Mr. MacMann?

MR. MacMANN: Thank you for letting me double dip. There was mention of calming on Smith. Is there a chance that that would be involved in the development agreement?

MR. SMITH: Oh, calming, calming traffic on Smith Drive.

MR. MacMANN: Calming. Discussion between the applicant and the neighborhoods?

MR. SMITH: So that wasn't part of the traffic study outcome. So that wasn't part of the recommendations. We have talked about that. I think there is understanding that there's a desire to have traffic calming there. Don't know if that study has been done yet. I haven't talked with public works. Part of one aspect of the development agreement is that there would be a contribution for some improvements the city has done and we can discuss the possibility of utilizing those funds to make improvements, some additional improvements that might be warranted in this area to help pedestrian mobility and infrastructure in some of those areas. We identified things such as some sidewalk gaps that might be a good use of that money but then also traffic calming.

MR. MacMANN: Thank you very much. Thank you for your forbearance.

MR. SMITH: That's not set in stone.

MS. LOE: I apologize for the interruption. We will now return to public comments.

MR. JANES: Good evening. Thank you. My name is William Janes, J-a-n-e-s. I live at 504 Onofrio Court which is in the Rothwell Heights subdivision three blocks from the proposed development. I want to thank Ms. Nelson for representing us. I'm speaking as an individual on behalf of my family. I'll say by way of background we purchased our home and moved to Columbia in April of this year well

aware that the land being discussed tonight was zoned commercial and recognizing that it is a matter of when, not if it is developed. So I say that to say I'm not strictly opposed to any commercial development on the site. I am opposed to the proposed development and specifically the rezoning to M-C and M-N. As Mr. Smith described, the described purpose of this really matches better with the M-C designation in the first place. Large portions of the land although the descriptive text on the developer's website and the architectural renderings look like and describe a walkable community friendly area. The plat that they submitted, the actual plans, clearly are designed for uses that require traffic. A gas station is not put in place for pedestrian traffic for a local subdivision nor are the fast food restaurants that are intended to go into this site. So I appreciate the recommendation of approving M-N zoning as opposed to M-C. However, as Mr. Smith insinuated, there is the opportunity for the developers to come back later within M-N and request exemptions or exceptions to develop those more M-C in appropriate properties on the site and I fear that rezoning it simply to M-N as opposed to M-C would simply be a way to delay and sidestep and put in those same developments that are not walkable or friendly for the public community. I'd be happy to answer any questions.

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

MR. IBRAHIM: Abdullhi Ibrahim, 300 South Scott Boulevard. A-b-d-u-l-l-h-i, Ibrahim, I-b-r-a-h-i-m. And I'm here to emphasize the objections of the homeowners association. Unfortunately I didn't attend any of their meetings. I think the traffic on Scott is scary and it is really minimizing the chances of renting the second home. Secondly, I'm really scared about what is going to happen to the Faurot Street because that is where I park my extra car all the time because I can't park on the street. So for all these reasons I fully support the homeowners association objections.

MS. LOE: Thank you. Are there any questions for the speaker? I see none. Thank you, sir.

MR. MELLOWAY: My name is David Melloway. I live at 3903 West Rollins Road in the Rothwell Heights development. First I'd like to thank Allison for doing such a great job of kind of outlining all of the general comments of the neighborhood. I live probably about 15 houses down Rollins. So some of the concerns, you know, don't directly affect me. The thing that does directly affect me is the traffic. In particular on Rollins Road we have speed bumps or speed humps now, but they're not doing a very good job of slowing down the traffic as it is. And by adding more traffic to that I think you're just making it even more of a speedway especially during the rush hour times. So I never heard the use of calming before, but I guess I would like to add to the list of calming requests on Rollins to at least as to the first three or four in that straight segment between Stalcup and Scott. Other than that, I think Allison has expressed all of our concerns. Thank you.

MS. LOE: Thank you. Are there any questions for this speaker? I see none. Thank you, sir.

MR. JENKINS: Hi. My name is Scott Jenkins. I live at 4012 South Wappel Drive. To save a little time, I'll say that my thoughts on this zoning matter pretty much mirror the statements made by our neighborhood association representative Ms. Nelson. In short, I believe as nearly every person in the

affected area I've discussed this matter with believes that the development as presented by the developer would be incompatible with the neighborhoods it would border and would, in fact, be detrimental to the area in general. I cannot think of another area of town where a commercial development of this size and content exists within similar neighborhoods without some detrimental effect to the areas. The developer has presented this project as a beautiful upscale mixed use development, but the reality is that it would be bringing an unnecessary gas station, drive-thru restaurants and whatever other businesses the developer desires within the zoning limitations into a very active family oriented neighborhood. The related traffic increases, noise and light pollution and potential environmental concerns are not a good fit for Rothwell or the other neighborhoods surrounding the development. The images displayed by the developer depict a lush wooded development, but the fact is the requested zoning would require a little more than small shrubs and trees. And when asked about including more vegetation to ease the transition of the neighborhoods, the developer stated they couldn't add much more without inhibiting visibility of the businesses or creating more traffic concerns. Another potential issue related to multiple fast food and gas station entrances along the western side of Scott would be the possibility for vehicles on Scott which is already heavily traffic to back up far enough as to leave the drivers stuck on the curve incline, a section where Scott turns into Broadway leaving motorists parked on a hill which can be very dangerous during inclement weather. I would also question whether the area in question could actually support a development of this nature given the quantity of vacant retail spaces near the proposed development including those in the area of Cherry Hill, Cherry Hill being a previous attempt at a mixed use neighborhood which saw many of its restaurants, convenience stores and other businesses meant to serve the area leave the area in short order. That all said, I'm not entirely opposed to the development of the area in question, but I don't believe what the developer has proposed is right for the area. The development has the potential to set a new standard for mixed use walkable neighborhoods in Columbia but I believe the inclusion of businesses such as 24-hour gas stations, fast food and pharmacies is not a smart choice for any such future developments. I would agree with their recommendation of the city to deny the M-C zoning. Thank you.

MS. LOE: Thank you. Are there any questions for this speaker? I see none.

MS. JUSTICE: Hi. My name is Sarah Justice. I live at 4200 West Rollins Road. My home is only about four or five homes up from the intersection of Scott and Smith and Rollins. My primary concern is that the change in zoning is not warranted nor welcomed by the surrounding homeowners. Several neighborhoods and active neighborhood associations have been very vocal at well attended meetings. We have the backing and agreement of our council representative Ian Thomas that a gas station, convenience store and drive-thru 24-hour fast food type establishments are not a good fit. There is not enough buffer or distance between this type of heavily commercial development and our homes. There would be additional light and noise pollution, potential for crime and increased traffic. It does not seem in keeping with our city's plan for bike and pedestrian friendly neighborhoods to put a large



commercial development that's primarily vehicular driven businesses in the center of these well established neighborhoods. Many of us walk with our children, meet and go for runs and bike in the area. We're not interested in dodging cars drawn off of Scott Boulevard for vehicular drive-thru businesses to continue to safely enjoy our neighborhoods. The developers have spoken to us and they have shown us the plans for the gas station, convenience store and the 24-hour pharmacy's potential, the 24-hour drive-thru fast foods and the drive-up bays of the bank. There are already accessible gas stations and convenience stores within a very short distance, and this eliminates the need for something like this. Most commercial developments of this type and scale are not placed directly central to well established family homes. I believe the map that showed all of the light yellow residential R-1 around the site was a very important image and it hasn't been blown out that way and shown very often but that was very telling since there were just those very few strips of R-2 making this possible in the first place. None of us set up our families here as part of a plan to be adjacent to such a heavy vehicle focused strip of businesses that don't see the aesthetics that fill the neighborhood. We are not well served by the proposed change in zoning and the purpose of this type of straight zoning would be to silence the concerns of the neighborhoods as any other developments are made at this site. We like being able to come and express to you how much we care about our neighborhood. It's pretty there. We all meet out in the streets and have neighborhood parties. We meet and go for walks and runs with our dogs. Any more traffic across this is going to make it very difficult to continue to enjoy our pedestrian and bike activities in our area. I would like to say that I am happy to see that there's a denial of M-C recommendation. I feel like that is very well supported by everyone who has made their concerns known tonight. Thank you.

MS. LOE: Thank you. Are there any questions for this speaker? Thank you, Ms. Justice. Any additional speakers on this matter?

MR. WARREN: Good evening. My name is Henry Warren, 301 Bright Star Court. I'm representing the Kings Meadow Neighborhood Association. And I was here when the previous zoning was developed and discussed. And I've seen what's come of that which, you know, was purported to be, you know, very economically viable and just exactly what was needed by the neighborhoods at that time. And it's become basically an overgrown field which it actually used to be kind of productive at alfalfa. Now it's just brush and evergreens. I think once again, you know, the concept is pretty rosy. And I won't say that -- one thing is I have not participated in some of the other discussions that have gone on that have been referenced here. I did come down here for a presentation that was given to the -- just an informational presentation. And I think my primary concern is the traffic because they're talking about connecting up Dayspring Drive which is right now stubbed off at the south end of Kings Meadow neighborhood subdivision. And actually at one time when there was some discussion about what was going to happen with Dayspring Drive we were actually told that it was not -- this is going back many years -- that that wasn't going to be extended. And if you think about what's been discussed here about the heavy traffic on Smith right now, if you connect up Dayspring that's where the overflow is going to go.

It's going to go -- people if they don't want to go through the light at Smith Road and Scott, they're going to turn on Dayspring, take Dayspring over to Christian Fellowship in front of a school of 500 children and then on Christian Fellowship or maybe go on Bright Star down to Broadway and down to Strawn Road. So, you know, any increase in traffic is going to have a big impact on our neighborhood. Of course, right now there's hardly any traffic on Dayspring because it's a cul-de-sac on the north end and stubbed off road on the south end. So, you know, there's not really very much traffic in front of the school right now except the parents bringing their children and dropping them off. They talk about, you know, the extension of Stone Valley to Broadway. I know I at one time called up, that's presented every once in awhile, and when I called up and asked, I can't tell you who because this was several years ago, that that is how that's going to happen. I was basically told that was just a line on a piece of paper; that the terrain in that area at the north end of Stone Valley and behind Christian Fellowship is very rugged. There's a stream bed in there. And there's also, you know, a plan to totally redevelop, redesign Strawn where Strawn Road comes into Broadway right now and so they basically said that that's not likely to happen. So I think we're going to -- basically Kings Meadow subdivision is going to see a dramatic increase in traffic under the current design and other potential.

MS. LOE: Mr. Warren, I need you to wrap up at this time. I'm sorry. I need you to wrap up.

MR. WARREN: Okay. Well, I will wrap up then. I want to thank you all for your service to the community. I know you're volunteering here. I really do appreciate that. I appreciate the opportunity to speak to you.

MS. LOE: Thank you for coming forward. Were there any questions for Mr. Warren? I see none. Thank you.

MS. KRISTIN: Good evening. My name is Kristin (indiscernible.) I live at 205 Bright Star just down the road from Mr. Warren. I'd like to add my voice to his as well as the voices of the Rothwell Height members and many of their concerns. Two specific things concerning Kings Meadow. First one is the traffic. Kings Meadow is a relatively small neighborhood. It supports a lot of traffic already not on Dayspring in particular because it is a dead end but Bright Star is a highly trafficked street. The number of parents and students who drive to school everyday mostly come down Bright Star and there's no school bus that brings those children to school so they're either driving or being driven everyday and, of course, the neighborhood supports a church as well. It's a lovely neighborhood. It just cannot support the amount of traffic that it has in a fashion that supports the sense of neighborhood and the pedestrian feel that it does have. We did ask for a traffic study about a year ago. It was confirmed that we needed some traffic calming devices. They said that we would be put on a very long list and we could wait several years. They did confirm that we're not crazy, we do have a lot of traffic. It will be difficult to imagine how that could support more traffic if Dayspring is extended. My second concern is for the number of children that live in that neighborhood. This development will back up right up to the neighborhood that will be backyards looking at this development and some of the particular businesses,

the fast food restaurants, the convenient mart, these are businesses, of course, that have the potential to affect crime safety in an area. My concern would be for the neighborhood in that regard as well but, of course, particularly for the children. Thank you so much.

MS. LOE: Thank you. Are there any questions for the speaker? I see none. Thank you. Are there any additional speakers? If there are any additional -- we still have another -- please come up. I'm just going to say please move forward and if you can restrict your comments to things that are new that we haven't heard yet that would be very beneficial. Thank you.

MS. ASHBAUGH: My name is Becky Ashbaugh. I live at 4316 Christian Fellowship Road. My property opens out to the lot that will be north of Faurot Drive if this goes through. Half of the school traffic goes down Bright Star, but the other half goes down Christian Fellowship, comes out on Scotts Boulevard and if there's a berm there I guess we'll all be directed south because we won't be able to cross over to go north onto Broadway. That's a real concern no one has mentioned. The school is there and there are many people who drive on that road. I have lived here 31 years and I've watched that field the whole time. I've driven on Scotts Boulevard when it was a two way down to (indiscernible) School when it turned into gravel coming in and I'm really sad that we can't take that field and turn it into a park. I know there's no money in that and it would probably have to be done by someone who would buy the lot from the owner if he didn't want to go ahead and donate it because for thirty-one years no one has thought of being without it, I mean, maybe in the last ten or fifteen years they've thought about it, but it would be a nice thing to have another park. I know there's one over there farther east on Rollins that they just made. It would be nice to have one on this side of Scotts Boulevard. That's what I'd like to say. I'm really sad that they want to develop that field.

MS. LOE: Are there any questions for this speaker? Mr. Smith?

MR. SMITH: I just wanted to get clarification on your concern with a berm at Christian Fellowship. We might be able to answer that question real quick. There's no proposed berms right now and a berm would generally be like a landscaping berm. It would be on the property. So it wouldn't affect traffic per se. Was that the concern?

MS. ASHBAUGH: Yeah, I thought the berm going south on Scotts is what you had communicated to follow through.

MR. SMITH: No, this would be -- that's just on the current OPCP plan which is in place now. If it was rezoned, there's no requirement for any type of berm. There would be possibly landscaping east and west on the north side of this property but nothing that should impact I think Christian Fellowship Drive, the traffic there.

MS. ASHBAUGH: Nothing would be in the middle of Scotts Boulevard?

MS. SMITH: So there would be some access restrictions for this site from Scott, I think some right in, right out restrictions. As far as I know, I don't think there's any proposed access restrictions that would be applied to the Christian Fellowship access point.

MS. LOE: Ms. Ashbaugh, can you speak into the microphone just so we can record the questions?

MS. ASHBAUGH: If there were no left turns onto Scotts from Christian Fellowship, then they would be going south.

MR. SMITH: Correct. Right now there's no restrictions planned for this site or recommended in the traffic study to restrict left turn or right turn movement eastbound out of Christian Fellowship.

MS. ASHBAUGH: Right now at this time?

MR. SMITH: I guess in the future something may come up with design or study of Scott; but in the context of what we're talking about tonight, no, there's nothing.

MS. ASHBAUGH: Okay. But the amount of people who will be living in that area from the apartment complexes, no one mentioned that's on the north side of Faurot that will be backing up my property, those occupants will be driving cars also. So that's extra. Then the senior citizen facility, that's added traffic. So there's a lot going on in this development. I just wish that we could think of somebody else to do with the property. So thank you.

MS. LOE: Thank you. Any additional speakers? Mr. Smith?

MR. SMITH: I was going to jump in before the next speaker just sort of back to what we had talked about before as far as restrictions on distance. The only restriction on distance that we have with the UDC is for adult entertainment. It is a thousand feet from schools and other sorts of uses as well. Also just to kind of clarify some terms we're using just so that we're kind of all speaking the same language. When we refer to walkability, it's come up a little bit tonight, generally walkability in terms of comp plan refers to kind of mixed use and how residents are actually able to walk to services and commercial services. Just being in proximity as a resident close to commercial would be kind of considered a walkable environment. I think some of the concerns were more about the auto orientation uses versus a pedestrian oriented use per se. So I think maybe that's the clearer way to describe it. That's all I have.

MS. LOE: Thank you.

MR. ERIC: My name is Eric (indiscernible.) I live at 5309 Tip Tree Court in the Westcliff Subdivision which is about a mile or so from the site. My family has been living there for about fifteen years in that area. And we've always known that that field would be developed sometime soon, and we've been looking forward to the commercial development coming to that area and additional conveniences that that would provide our family as far as restaurants, c-store, grocery store, et cetera, as we and several in our area have felt like is currently underserved for those uses being close to us.

MS. LOE: Thank you. Are there any questions for this speaker? I see none. Thank you.

MS. PATTON: Hello, everyone. My name is Gena Patton. I live at 4705 Glenn Wesley Court which is three houses down from Stone Valley Parkway which is the west side of the development, and it was communicated to us at several of our meetings that we would not have access to turn left off of

Christian Fellowship and off of Faurot onto Scott; that all the traffic would be directed south and that that's going to funnel all the traffic down Dayspring and Stone Valley to get to Smith to the expanded lanes in Smith to get to go left to go on Broadway. That's what was communicated to us at several meetings. So I just wanted to make that clear that that's going to increase more traffic through the neighborhoods and more traffic through the neighborhoods prevents walkability. So thank you for your time.

MS. LOE: Thank you. Any questions? Any final speakers? Last call. All right. I'm going to close the public hearing on Case 24-2019.

### **PUBLIC HEARING CLOSED**

MS. LOE: Commissioner comments?

MS. RUSHING: I have one question --

MS. LOE: Ms. Rushing?

MS. RUSHING: -- for the staff.

MR. SMITH: Yes, ma'am.

MS. RUSHING: If we were to deny the request for M-C zoning, I don't have a copy of the graphic where you showed the requested zoning, what effect is that going to have? What will become of this light green area?

MR. SMITH: I think the answer to that is that probably practically speaking denial of one of the requests isn't really an option. I think it's going to be an all or none. I won't speak for them, but it will be difficult to rezone a portion of this to straight zoning but leaving some of the plan zoning in place but now it's only a portion of that plan district. It gets a little complicated. They'll have a decision to make when it gets to council, I think.

MS. RUSHING: So it's all or come back with something else?

MR. SMITH: I would say for purposes of a recommendation here as far as staff's recommendation goes that is what we're recommending. We're saying what zoning would be appropriate from what they've recommended. We're not necessarily going to say what they should do with the request, if they should withdraw or if they want to move forward we'll try to figure out a way to make it work if that's what they request..

MS. RUSHING: As far as our action, we would -- if we agree with staff's recommendation, which I'm not saying one way or the other, but if we were to agree with staff's recommendation, then we would -- we could not approve the application?

MR. ZENNER: You could approve the application less the M-C zoned area. What that would entail, you'd be denying the applicant's request. That recommendation would be forwarded to city council. The ordinance that will be prepared for consideration at council will be as presented by the applicant. The staff report which recommends denial, the full transcript of this meeting, and then the council report that we prepare that summarizes the Commission's discussion will, in essence, have to be refuted by the applicant as to why should council at that time then approve what the applicant has

originally requested. All of these folks that have spoken here this evening will have the opportunity to speak to council again also making the exact same arguments. The rationale for that is that council cannot approve the applicant's request if the ordinance is going to produce with a lesser zoning recommendation or recommendation of denial presented if that's the direction the Commission would head without having to restart the entire process. So we have been advised, and this was actually most recently experienced with the Oakland Crossing project, your recommendation was for denial of the M-C at Oakland Gravel Road and Prathersville. We were informed by the council or by our legal staff that the ordinance was going to be prepared as requested by the applicant to allow the council then to do an amendment sheet at the council level to down zone the property should they desire to do that and if the applicant consented. So you can't go up in zoning classification, but you can always go down. One option that exists here with this particular request, you can deny the M-C, you could offer a recommendation of a different zoning classification. In reality what's going to be end up happening is if you deny the M-C, the existing PD zoning of OPCP is that is generally what is in place. There is some PUD-12 on what is referred to as Lot 9 on this graphic. That would all exist and the legal description for the property and what was to be rezoned would have to be changed if council decided to go in that direction as well. And all of the commercial uses per the existing plan district approval would still be applicable on the non M-N and R-MF zoned property here. I think that that goes to Mr. Smith's point that really when you look at this and potentially from the applicant's perspective it is an all or nothing. You either are going to approve the project as presented by them or you're going to possibly provide a different recommendation for the M-C area that has been suggested by staff and we're recommending denial on. It makes for, as Mr. Smith pointed out, a messy project. There are a variety of options and avenues that it could go through. It's a worm hole that we would probably have to work through afterward and try to work with our legal staff to figure out, and the applicant, if their desire is to pursue forward to get the legal descriptions in the right format that would allow the property to be zoned as your recommendation may come forth.

MS. RUSHING: Okay. Just to clarify in my mind, if we were to make a motion in the same form as staff's recommendation, which would have the effect of denying the requested zoning change where the light green M-C is, the zoning that is currently there, the PD would stay in force?

MR. ZENNER: That be correct, ma'am. To clarify, it would stay in force if council chose to not override the Commission's recommendation.

MS. RUSHING: Right, I understand we're just making a recommendation.

MS. LOE: Mr. Stanton?

MR. STANTON: So we can recommend a zoning to replace the M-C that would make it a lot more complicated. So really the best way to deal with this is to say yes or no to what is in our face right now and leave that to city council to fight over M-C?

MR. ZENNER: Yes. That's one option. I mean, again, you can make an alternative

recommendation for the M-C if that is how the majority of the Commission sees it appropriate. You could make a recommendation to approve and vote in the alternate and, in essence, deny the project in whole. I mean, again, the recommendation as set forth or presented by staff is broken into two pieces. One that we see that there is viability for the R-MF and the M-N that we have as we've expressed in the staff report and I think as you've heard this evening the M-C zoning does have issues with staff and therefore our recommendation is deny. How you choose to deal with that component of denial could apply to the entire property or could apply to the small area only.

MS. LOE: Ms. Russell?

MS. RUSSELL: Remind me or refresh my memory, are gas stations an approved use in M-N?

MR. ZENNER: No, they are not, ma'am. They are a required conditional use --

MS. RUSSELL: Thank you.

MR. ZENNER: -- along with restaurants and drive-thrus as well -- restaurants with drive-thrus is a conditional use as well.

MS. RUSHING: Thank you.

MS. LOE: Ms. Burns?

MS. BURNS: Yes. I just for my fellow Commissioners as we were talking about this and talking about staff's recommendation, particularly the denial of the M-C zoning map, I don't think I'm comfortable inserting another zoning class in there. I don't know what the applicant would want. I am in favor of looking at staff's recommendation and moving from there, but I'm concerned if there's any consideration of inserting an additional zoning or changing the zoning on that.

MS. LOE: Ms. Russell?

MS. RUSSELL: I tend to agree for us to take that and down zone that. I tend to be in favor of an owner being able to do something with their property. However, I am not in favor of drive-thrus and a gas station at this location. It just doesn't seem to work for me. So I was just trying to figure a way to kind of make it work, but it sounds like it's in the too hard to do box.

MS. LOE: Mr. MacMann?

MR. MacMANN: I have a motion. Does anyone else need to speak? Along the lines of what Ms. Russell just spoke. Mr. Smith, my computer is down, I can't see the numbers. Thank you. In the matter of Westbury Village Case 24-2019, I move the following: That the R-MF and M-N zoning are approved while the M-C is not.

MS. RUSSELL: I'll second that.

MS. LOE: Second by Ms. Russell. We have a motion. Is there any discussion on that motion? Seeing none, Ms. Burns, will you call the roll, please.

MS. BURNS: Yes.

**Roll Call Vote (Voting "yes" is to recommend approval.) Voting Yes: Mr. Stanton, Mr. Strodtman, Ms. Rushing, Ms. Russell, Ms. Burns, Ms. Loe, Mr. Harder, Mr. MacMann; Voting No:**

**Mr. Toohey. 8-1 Motion carries.**

MS. LOE: Thank you. That recommendation will be forwarded to city council for their consideration.

MR. ZENNER: Ms. Chairman, we have been at this now for almost three hours. Would you like to take a ten-minute recess?

MS. LOE: Yes, I think that would be five, five to seven minute recess.

(Off the record.)

MS. LOE: We're going back to the Planning and Zoning December 20 meeting. Our next case is Case 23-2019. It's a related case.