

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

December 7, 2017

Case No. 17-238

A request by Smith Lewis, LLP (agent), on behalf of NGT, Inc. (owners) to annex 10.36 acres of land into the City of Columbia and have it designated as M-N (Mixed-Use Neighborhood District) as its permanent City zoning. The subject 10.36-acre tract is located at the northwest corner of Brushwood Lake Road and Scott Boulevard. The subject property is currently zoned Boone County A-R (Agriculture Residential).

MR. STRODTMAN: At this time, I would ask any Commissioners who have had any ex parte communications prior to this meeting related to this case, please disclose that now so all Commissioners have the same information to consider on behalf of this case in front of us. I see none. Thank you.

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

Staff report was given by Mr. Rusty Palmer of the Planning and Development Department. Staff recommends approval of the annexation and permanent zoning.

MR. STRODTMAN: Thank you. Ms. Loe?

MS. LOE: Can you comment on the fact that 90 percent of the site is in the floodplain?

MR. PALMER: Yeah. I'm glad you brought that up. It is -- a bulk of the property is in the floodplain and then the remainder almost completely is in the -- sorry. The bulk is in the floodway and the remainder is in the floodplain, as well. So that is not a consideration necessarily of an annexation and a rezoning. The applicant is currently in the process of having the flood map changed because of fill that has been placed on the site. And I believe in 2010, they received a land disturbance permit from the County in order to remove illegal or inappropriate fill so that they could properly do it for that -- for that purpose. And so if you go out there now and you can kind of tell from the aerial there, that portion of it closest to the intersection has been filled substantially. So that's yet to be determined, but they -- I believe they have applied for a change to the FEMA map in that location.

MS. RUSHING: That eastern part of the property, however, is significantly below the roadway level.

MR. PALMER: Correct.

MR. ZENNER: And I think what Mr. Palmer is trying to point out here is we're talking about with this application the appropriateness of the zoning designation --

MS. RUSHING: Okay.

MR. ZENNER: -- not the developability of the property at this point. The developability of the property is determined at the -- at the time of subdivision and design planning. In order to secure the ability to be able to develop the site, regardless of what jurisdiction this may lie within, it must be annexed into the City of Columbia to receive services. So annexation is a prerequisite to be able to proceed forward to development. Development may or may not be possible on this site based on other regulatory standards. The applicant was advised of that at the time the concept review was held. The applicant is here this evening and can address what efforts they are undertaking at this point in order to resolve the floodplain and floodway related issues. Brushwood Lake Road, which is what is defined or depicted on this graphic in the northern reaches of this property, was relocated as part of the Scott Boulevard reconstruction project to get it out of the floodway. That roadway, as it has been relocated right now, is not in it. Therefore, that portion of the site provided the appropriate floodplain development permit is obtained, if it is in the floodplain or the flood fringe, is allowable to be developed. If it is part of the FPO, it, under our regulations within the code as has been brought to light earlier this week by an application, where the sensitive features analysis map would require, as part of the subdivision process again, would require the identification of all floodway and flood fringe or floodplain, the applications provisions of the code back in Article I specifically indicate where there is a conflict between an overlay zoning designation and any other provision of the code, the overlay regulation shall apply regardless if it is more or less stringent than the other portions of the City Code, meaning the FPO allows development within the flood fringe provided you meet the requirements that are within the code itself. Therefore, any area that is out of the floodway, which is nondevelopable by FEMA's regulations and nondevelopable by the City of Columbia's standards, is developable provide you meet the requirements contained with the FPO and you meet the floodplain development permitting requirements. So the issue of the area that is within the floodplain as being nondevelopable is a nonissue given that the code exempts our ability to classify that as part of the sensitive features and regulate it out of development. That is what the code reads right now and that is something that has recently come to light. So that, however, is an issue that's discussed at the development stage and at the platting stage. Right now, we're dealing with is M-N, given the land use context, an appropriate use. If you believe that it is not, and that some other zoning designation may be more appropriate here, that is a decision that the Planning Commission needs to consider as part of rendering its recommendation on the permanent zoning. Annexation, as we have discussed before, however, is a Council prerogative. It is a policy-related matter. If the City Council determines that this property is an appropriate extension of the City's boundary, their annexation -- their consideration of annexing the property and assigning a zoning classification to it, be that what the Planning Commission recommends or what they determine to be appropriate based on the applicant's request, ultimately lies with them. At this point, we present to you what the applicant is seeking and we present to you our analysis that the M-N zoning district is appropriate, given the land-use context, hence our recommendation. The environmental issues we'll deal with at the time that those need to be dealt with,

and that would be at subdivision platting.

MR. STRODTMAN: Thank you, Mr. Zenner. Ms. Loe?

MS. LOE: We've had some cases come through already and part of the discussion was whether the zoning was appropriate for a site that was located in the floodway, and we decided that a residential designation was not appropriate and that the site should remain at an agricultural, so that's why I'm bringing this up because I'm wondering if maybe this shouldn't be M-N, but maybe remain more in the agricultural due to the nature of the sensitive areas located on the site. So I do feel it's still a pertinent question, not something that would come up later.

MR. ZENNER: And I'm not suggesting, Ms. Loe, that it is not a pertinent question and it is not something pertinent to your debate. What I am telling you is that just because the property lies within the floodplain does not render it nondevelopable.

MS. LOE: That's -- that's an interesting point. I'm wondering if we need to bring that earlier case back forward, because I do think that we were following a slightly different line of argument on that one, and I would like us to remain consistent as possible.

MR. ZENNER: Well, no case that has been presented this evening is impacted by that at this juncture.

MS. LOE: Not this evening, earlier this --

MR. ZENNER: That case is actually already on its way to City Council, so that is something that will have to be dealt with at the Council level. This is information that unfortunately came to our attention earlier this week and impacts cases moving forward.

MS. LOE: And I agree, and I think that it's -- if this is the case, it's very -- and maybe it's something we need to address in the UDC because --

MR. ZENNER: That would -- that would be something that we would be bringing to your attention, given the fact that the exemption that is defined within the particular section 29-1.6, relationship to other ordinances, when we -- when you read this section, you can read this section and make an interpretation of the language as it relates to the overlays applying specifically to our urban conservation district overlays, not necessarily meaning to apply to all overlay districts. However, unfortunately, the way that the code is currently written, without it being comprehensively amended, it applies to all overlay districts. It does not call out our urban conservation. It says overlay. And as such, that is how we have to review the code and interpret it at this point. It is definitely an item, as I was informed earlier this week of this particular finding, that came as a shock to me, as well, and that one that we will have to discuss as a staff and as a Commission moving forward as we present text amendments. But for this point right now, what I can tell you is where we run into the issue of environmentally or sensitive land features that are part of the floodplain, those areas can, if an applicant is willing to identify those and cull them out within a preservation easement area and avoid development within them, however, they are not regulatorily obligated to do so given the regulation that I have just quoted to you that allows them to utilize the overlay provision.

MS. LOE: This is -- I'm just -- this is confusing because we have been through a similar case and I remember stating that I agree FEMA does allow development in the flood fringe, but the UDC, as we were interpreting it on that case, did not.

MR. ZENNER: And the UDC --

MS. LOE: And now it sounds like we're -- you just said previously FEMA and the City would allow development in the flood fringe and --

MR. ZENNER: I believe, Ms. Loe, what we were looking at was we were looking at the specific section as it related to the sensitive features, the sensitive features which are inclusive of the floodplain.

MS. LOE: I understand. I'm not sure I understand this well enough to make a decision on this case.

MR. ZENNER: And that is -- and that's fine. I raise the point because the question has come, is the land area, if it is zoned M-N, developable. And if it is, it is considered a developable feature per the code, and our recommendation and our analysis is based on the fact that that is considered a developable area provided it meets the regulatory standards; the floodplain development permit standards, and that it would also meet our other platting requirements. If the Commission has a -- has a differing opinion of the intensity of that use, that is the Commission's decision.

MS. RUSHING: Well, and I share Ms. Loe's concern because the area we were talking about previously, if I recall the same one that you do, the -- the possibility of flooding, although there was a record of flooding in that area, it was at least flatter. This lays -- the property is way below where the roadway is, which, to me, means it's really sensitive to flooding, much -- you know. And I think an issue arises when we aren't consistent as to why we're not consistent, and that bothers me.

MR. STRODTMAN: Mr. MacMann?

MR. MACMANN: If I may. It sounds like we have to resolve some textual issues. I'm sorry to the applicant for us digressing here. We're feeling our way forward on the new code and some of the applications. I would suggest that just to kind of be on the record that a way to resolve this -- to resolve this is to take this particular type of overlay out and any applicant at any time is certainly welcome to attempt to upgrade any of their properties to take them out of the floodplains or floodplain fringe, but I think, in the future, we might be hesitant to issue -- approve preliminary plats or zoning changes before that work happens, just -- that's just my thought because again where we were a little bit ago in the evening where we're approving something or we're asked to approve something or recommend something where the agency -- there are other agencies bigger and different than us that have to make the final approval for anything to go forward.

MR. STRODTMAN: Thank you, Mr. MacMann. Mr. Stanton?

MR. STANTON: My fellow colleagues, I think I just need to iterate that this is just an annexation just to get it into the City. So, all the stuff that concerns us still has to -- can be addressed later and definitely the market can tell, and I'm definitely going to say again, the last case we talked about, I built in New Orleans, and the Indians said don't build there, and they did it anyway. It has nothing to do with this

being annexed into the City. I think that -- I -- my personal opinion is I think we -- they need an opportunity to be able to connect to City resources. The market and Mother Nature and FEMA and all that will determine what they can do with that later.

MR. STRODTMAN: Thank you, Mr. Stanton. Any additional discussion, Commissioners? If not, I'll open it up to the audience to come forward.

PUBLIC HEARING OPENED

MR. STRODTMAN: Okay. This is a public hearing, so Case 17-238. If there's anyone in the audience that would like to come forward at this time, we would welcome that.

MS. LAMAR: Good evening. My name is Phebe Lamar, and I'm here on behalf of NGT, Inc., which is the owner of the property that's at issue. As staff has already informed you, we're here seeking to have the property at the corner of Brushwood Lake Road and Scott Boulevard annexed and zoned M-N as it's annexed. The zoning that's requested fits this location well. It's right at the roundabout at the intersection of Vawter School Road and Scott Boulevard. It has planned commercial zoning on two of the other three corners of the roundabout. The final -- the final fourth corner has not yet been annexed at this time. In order to obtain utilities for this site, it's necessary to obtain annexation because there are utilities available and, at least the last I knew -- and I'm not as familiar with the UDC as you all, but the last I knew, it was required that if you were within a certain number of feet of City utilities that you actually hook onto those utilities. So if we don't annex and we don't allow them to hook onto those utilities, then we are preventing them from having utility service on this site. The intersection at which this property is located is busy enough that it might have made sense to request zoning as mixed-use corridor rather than mixed-use neighborhood, but in order to accommodate concerns of residential properties that are located within fairly close proximity of this property, my client instead elected to request the mixed-use neighborhood, which is a step down. The property owner submitted -- submitted previously an application to FEMA to have this property recategorized as far as whether or not it falls within a floodplain. That application was submitted in April. It has -- there's been a number of things go back and forth since then. It hasn't actually been issued as of this point, but we have no reason to believe that it won't be. We also will be submitting to the County Commission an application to vacate the prior location of Brushwood Lake Road, which was, as staff mentioned, reconfigured in order to accommodate the extension of Scott Boulevard. We believe that that will actually be approved in March. My client is not intending to immediately develop this property, but is trying to put himself into a position that they can sell the property to somebody who will be developing it. In the course of submitting the plat and submitting for permits and all of that sort of thing, all of the issues with regard to floodplain, flood fringe, et cetera, will be explored and certainly figured out prior to the time that somebody else buys this property. And that will also be the City's opportunity to obtain additional right-of-way that's needed for Brushwood Lake Road, as well as for the roundabout at that intersection. The uses that are included in M-N zoning makes sense in this location and annexation is reasonable based on the utilities that already crossing the property. As a result, we would request that you all annex this property into the City of Columbia and also zone it M-N,

which fits within the -- within the zoning classifications that are already present surrounding this. For all these reasons, we ask that you approve this application. Isaac Cox, who represents the owner, is here this evening, and so am I, and we're happy to answer any questions that you have.

MR. STRODTMAN: Thank you. Commissioners, any questions of this speaker? I see none. Oh, sorry. Ms. Loe?

MS. LOE: Ms. Lamar, can you just comment on what types of uses that you anticipate that you're requesting the M-N zoning for?

MS. LAMAR: The uses that are included in M-N zoning.

MS. LOE: So shopping, service facilities?

MS. LAMAR: Those are the same -- those are very similar uses to those that are permitted catty-cornered across in the Copperstone commercial zoning, and that's what we're looking to do.

MS. LOE: Thank you.

MS. LAMAR: Sure.

MR. STRODTMAN: Any additional questions? Thank you, Ms. Lamar.

MS. LAMAR: Thank you.

MR. STRODTMAN: Anyone else like to come forward this evening?

MR. COX: My name is Isaac Cox; I'm a realtor with ReMax/Boone Realty, 33 East Broadway, 65203. I just want to make myself available for questions for you folks and, before you do that, briefly explain our letter of map amendment application that we have submitted to FEMA. There are 3.78 acres on that property that have been elevated well beyond the flood level, and we've been conservative with that request just to prevent any issues going through FEMA. The request for additional information that they've had have been all clerical. There hasn't been any issue with us stepping too close to the boundaries or the flood level. Scott Boulevard is not the flood level. The flood level is much lower than that. Every piece of footage that we're requesting to be removed from that flood map is at least two feet above the 100-year floodplain level.

MR. STRODTMAN: Thank you, sir. Commissioners, any questions of this speaker? Ms. -- I'm just having trouble with your name this evening. Ms. Burns?

MS. BURNS: Has FEMA indicated when they might be able to give you a final ruling on this?

MR. COX: Very soon. Stan Shawver's signature on another part of our application was the last thing they requested. I -- you know, no. I can't speculate on when FEMA is going to get it done to us. I, obviously, would have appreciated it to be done before now, but I understand they have to go through their due diligence.

MS. BURNS: I just feel like there's so many things that need to be tied up about this before we zone it in at an M-N zoning situation. And you said you applied in April?

MR. COX: Correct.

MS. BURNS: Okay. Thank you.

MR. STRODTMAN: Ms. Loe?

MS. LOE: You said 3.78 acres would be raised above floodplain level?

MR. COX: Is raised above floodplain level. Correct.

MS. LOE: So what are you planning -- or what's the plans for the remaining 7.4 acres, approximately?

MR. COX: That would be up to the future developer. I mean, just -- like, we can't say.

MS. LOE: Even though most of that's in the floodway?

MR. COX: Oh, I would think it would behoove somebody to possibly develop -- you know, begin a development on the 3.78 acres and possibly raise the remaining property up over time, just like the current owner has.

MS. LOE: Can I ask staff a question? Do we allow raising floodway?

MR. ZENNER: I'd have to confer our floodplain administrator. I do not believe we will allow work within the floodway. I'm sure that there is a FEMA process for raising or filling in the floodway and that's probably --

MS. LOE: But there has to be a net zero.

MR. ZENNER: Yeah. There has to be no rise and a variety of other things associated with that. So I imagine there is a process, but the letter of map revision, which Mr. Cox is referring to would obviously, on the platting end of it, eliminate the 3.76 acres or that -- roughly that amount of area on a final plat from having to be identified as being sensitive featured land per the sensitivity map. Whatever area may lie then beyond that that's in the fringe, as I was explaining earlier, which is considered developable provided it is elevated two feet above, which is permitted per the floodplain development permit process, could be developed given the fact that it's going to be in the FPO overlay unless we amend the text. So the impact initially, and I think this goes to Ms. Burns' point, and I think Mr. Cox's point, if the LOMA were -- have already been issued, we'd be talking roughly an annexation of the entire tract of land because you have to bring the whole tract in, but you'd only be able to develop approximately 3.75 or so acres of that. So the intensity of an M-N use is going to be restricted based to that developable footprint. And while the uses are similar to what is Copperstone in the M-N zoning district, which is actually C-3 -- it's a C-P zone -- the actual intensity of those uses is slightly less because our M-C, which would be now the comparable C-3 corridor, the M-N is your neighborhood uses, so there are variations in the intensities of retail -- single-shop retail space and some other activities that are similar in both zoning districts, but because of the variation, the step-down -- neighborhood step-down from the corridor, you are going to see less intense, but similar uses. So I think what the applicant was trying to attempt is -- I believe Mr. Palmer pointed out, as well as Ms. Lamar -- is the transition into the neighborhood, into the neighborhood setting that's behind this property and then moving up towards the park. That's the recognition of M-N. I know when Mr. Cox came to me initially and asked about this site and what the appropriate zoning was, there was lengthy discussion about M-C, and either my powers of persuasion or his understanding of what the Commission's concerns may have been weighed heavily into how the application finally got submitted. However, it is consistent with -- with this node, and the M-N,

from staff's perspective, would be appropriate. They were limiting, and you don't know what may happen in the future, but you're limiting with the LOMA really the impact of that development area of a significant development to the three -- the 3.75 or 3.76 acres at this point. And it's going to be more up toward the corner; that is, where the roundabout -- the additional right-of-way and where the major improvements are there at the corner itself. In general, what I can tell you is that the floodway is off limits from development, period -- and unless you go through probably a much more elaborate process, and that is how our development permitting program works. And then floodway or floodplain development is slightly relaxed, but still has regulatory standards that do have to be met. And there are protective standards within the overlay that are similar to -- you know, we basically adopt FEMA's requirements to be part of the FEMA program for flood insurance.

MS. LAMAR: There's also --

MR. ZENNER: I think the platting of all of those features and the identification of those comes out at the platting stage. So the developable portion, the seven acres and what's actually truly developable will be better understood as we get to the platting component of this. The intensity of this development, it's difficult to say don't look at it from the whole, but I think it's -- it's fairly understandable that you take out the floodway. You can't develop in that today. Then you have to take out the stream buffer. We still have climax forest preservation possibly on a portion of the site that's going to need to be retained. And then you're going to have to deal with what is really not developable land because of other requirements. So, you know, a conservative estimate, you're dealing with only three and a third, three and three-quarter acres of land to be developed really out of a ten-plus acre tract.

MR. COX: Still a significant developable, marketable piece.

MR. STRODTMAN: Mr. MacMann?

MR. MACMANN: Thank you, Mr. Chairman. Mr. Cox, this -- you say you're anticipating Brushwood being vacated in March perhaps from the County?

MR. COX: That's correct.

MR. MACMANN: When did you all ask them to vacate that?

MR. COX: We have a petition to submit tomorrow for signatures. Uh-huh.

MR. MACMANN: Okay. You haven't yet submitted that. All right. Question of staff. I'm going to hold that for right now, though. Thank you.

MR. STRODTMAN: Any additional questions of this speaker? I see none. Thank you, Mr. Cox. Any additional speakers like to come forward? I see none. We'll go ahead and close the public hearing.

PUBLIC HEARING CLOSED

MR. STRODTMAN: Commissioners, additional questions. Ms. Russell?

MS. RUSSELL: I don't have a question as much as a comment. I agree with Mr. Stanton. This is an annexation. We will have plenty of opportunities to address what happens to it later on. They're really just asking for the annexation so that they can connect to the City services, and I just think it bothers me that we are taking away the opportunity for them to make a better sale of this property by

denying it, and we'll have lots of time to tell -- to voice our opinion of what goes there.

MR. STRODTMAN: Mr. MacMann?

MR. MACMANN: I agree with Lee and Anthony on some of these points. I -- I think annexation is fine. I -- and I even think all these other sensitive issues being resolved, M-N is what should go here. And I'm glad we've had this discussion now, although we've taken a little time away from the applicant, because I think we need to get a little better process going about which comes first, you know. We've got County issues, we've got FEMA issues, we've got sensitivity issues. But as far as the annexation goes, I'm fine with that, because they should -- they should be connected. And I would like a little better process for determining what comes first and when we do zoning and stuff. I appreciate all of this. I agree with Commissioner Russell that this will be resolved at the platting process. I just wanted to make that comment.

MR. STRODTMAN: Commissioners? Mr. Stanton?

MR. STANTON: Oh. I commend Ms. Loe for bringing up this issue constantly. It needs to be in our mind constantly, floodway, floodplain, all of that, but we're just asking for annexation. So, if there's not anything else to discuss, I would like to make a motion, sir. As it relates to Case 17-238, NGT, Incorporated, annexation and zoning, I move to approve annexation and permanent zoning.

MS. RUSSELL: Second.

MR. ZENNER: Mr. Chairman?

MS. RUSHING: What zoning are you approving?

MS. RUSSELL: M-N, the zoning.

MR. STRODTMAN: Yes, Mr. Zenner? Is that your question?

MR. ZENNER: Well, no. I think we need to clarify the fact for the public record, so the record is correct. You are not acting on the annexation. That is a policy issue of City Council. You are only recommending the permanent zoning of this property. So if the motion can be refrained --

MR. STANTON: Okay.

MR. ZENNER -- reframed to only reflect the zoning recommendation, annexation is a policy matter of City Council.

MR. STANTON: I move, as it relates to Case 17-238, NGT, Incorporated, the permanent zoning of M-N.

MS. RUSSELL: Second.

MR. STRODTMAN: Thank you, Mr. Stanton, for the motion. Thank you, Ms. Russell, for the second. Commissioners, discussion needed on this motion? Ms. Loe?

MS. LOE: I just want to comment that I don't have any conflict with the annexation. However, I don't feel like we've gotten all the information necessary. You've applied for the LOMA, but it hasn't been approved. We've run into some interpretation changes in UDC that, based on the information I have, and then does not seem to me to be appropriate for the information I have in my hand. I understand changes are pending or in the works, but I just wanted to put that comment out there.

MR. STRODTMAN: Thank you, Ms. Loe. Any additional discussion needed? Mr. MacMann?

MR. MACMANN: Just real quickly. I'm glad Ms. Loe brought us back to -- brought me back to reality there. I'm being asked to approve something that's going to get a LOMA, that's going to be done by the County. I think they both are. That shouldn't be the criterion that I should use to judge this. I should judge it as it is right now. Thank you. And it's a floodway and a floodplain right now, so thank you for bringing that back up.

MR. STRODTMAN: Yes, Mr. MacMann. Any additional discussion on this motion?

Ms. Rushing?

MS. RUSHING: I agree with Ms. Loe. I just think that zoning at M-N is misleading at this point.

MR. STRODTMAN: Thank you, Ms. Rushing. Mr. Stanton?

MR. STANTON: This is just -- this is the zoning they intend to use. All these issues that we have discussed before are still on the table. They may be -- we don't know whether -- they don't know how much space they're going to have until they get all of these what ifs answered. We're just kind of giving them this is the -- this is the playing field, these are the parameters, and then we'll see what happens when all these other things come into place. They may not be able to develop it all.

MS. RUSHING: Well, but when they come into place, they can rezone it.

MR. STANTON: Yeah, they could. But at least let them get annexed and get the ball rolling, in my opinion.

MR. STRODTMAN: Thank you. Any additional discussion on this motion before we ask for a roll call? Ms. Burns, when you're ready.

MS. BURNS: Yes.

Roll Call Vote (Voting "yes" is to recommend approval.) Voting Yes: Mr. Harder, Mr. Stanton, Mr. Strodtman, Ms. Russell. Voting No: Ms. Loe, Mr. MacMann, Ms. Rushing, Ms. Burns. Motion ties 4-4.

MS. BURNS: Four to four; motion is tied.

MR. STRODTMAN: That's a first.

MR. ZENNER: No recommendation. Correct?

MR. STANTON: Mr. Chairman, do we need to get a coin out?

MR. MACMANN: No. It has to be an affirmation. But that's -- four-four is a no.

MR. ZENNER: Four-four is a no.

MR. MACMANN: Four-four is a no. It has to be a positive motion.

MR. STRODTMAN: Okay. So are we -- okay with that staff? That's -- it would be forwarded on for approval to the City --

MR. ZENNER: Well, you'll forward it on for something for Council, so --

MS. BURNS: Our recommendation will be forwarded.

MR. STRODTMAN: Our recommendation will be forwarded to City Council for their consideration.

MR. ZENNER: Recommendation of -- yeah. Let me take a look at our Rules of Procedure here for you.

MR. MACMANN: It's -- it's a no.

MR. ZENNER: Tie votes. In the event -- according to your Rules of Procedure, Section 21, in the event of a tie vote on a motion, the motion shall be sent to -- shall be sent forward to the City Council without a recommendation, but with an indication of a tie vote, so that is how it will be sent forward.

MR. STRODTMAN: There are -- so our tied vote will be sent to City Council for their consideration?

MR. ZENNER: That's correct.

MR. STANTON: I have a question for staff. So it still goes to City Council for annexation. The zoning of that possibly annexed land is up for grabs. Is that what we basically determined? But we have not established a zoning?

MR. ZENNER: No. You have not -- you have not made a recommendation on the zoning. The applicant's recommendation or the applicant's request will be forwarded for M-N with an indication that the Planning and Zoning Commission had a tie vote, which, in essence, represents a non- --

MR. STANTON: We didn't have this discussion.

MR. ZENNER: -- a non -- well, you had the discussion quite lengthily, quite honestly, and the Commission -- or the Council will be having to render a decision. And to answer the first part of your question, Mr. Stanton, yes. The City Council will be being -- will be receiving for their December 18th meeting a resolution to set a public hearing for January 2nd to discuss -- have a public hearing on the request to annex the land into the City as required by state statute. The request to zone the property to M-N will be introduced at that same meeting. And then on the January 16th Council meeting, they will be taking a final vote on establishing or applying zoning to the property, as well as rendering a final decision on the annexation to bring it into the City. Once that process is finished, as we have discussed this evening, there will be final platting required to be coming in at a later date that would address many of the questions that have been raised this evening as to the developable area and other aspects of what may or may not be permitted on this property.

MR. STRODTMAN: Thank you, Mr. Zenner.