

Case No. 16-110

A request by the City of Columbia to adopt a Unified Development Code (UDC) governing subdivision and land use regulations throughout the City of Columbia's corporate limits as requested by the City Council and supported by the City's 2013 comprehensive plan entitled "Columbia Imagined - The Plan for How We Live and Grow." The UDC will replace Chapter 20 (Planning), Chapter 23 (Signs), Chapter 25 (Subdivisions), and Chapter 29 (Zoning) of the existing City Code. It will also amend Chapter 12A (Land Preservation) by relocating the provisions of Article III (Tree Preservation and Landscaping Requirements) into a single document.

MR. STRODTMAN: So how we are going to work this evening is we will go ahead and open it up to the public input portion of our meeting tonight. As you came in, there was a sheet of paper on your desk -- on a desk back there with some kind of -- some procedures that we will follow tonight. So in case you didn't pick one of those up, I will quickly summarize it for you. Basically in a nutshell during the open public input portion you will state your name and address for the record. We are going to ask everybody a maximum of five minutes, and you cannot -- obviously we could wave, you know, we may ask you at some point to stop even before five minutes is up, if there is reason for such. But you will have five minutes max. You cannot split your time up amongst other people here this evening. You can't use three minutes and give two minutes to someone else. You only get to speak once. And really the purpose of tonight is to speak on specific segments or specific topics within the segment -- within the UD -- UDC that you have a concern about, or you are questioning, or you want us to discuss a little bit more. We're not here really to discuss the -- if you don't believe that this is a right -- that we're -- the whole UDC is not right for Columbia. That's not why we are here. We're -- that's already been moved up forward. We've been asked to review this; that's what we're doing. If you have an overall global planning point of view, I would ask that you would hold that until City Council. And if you have specific ideas on a segment, that is what we want to talk about this evening. Obviously, we'd love to not to have repeat people, and if you are going to repeat something maybe just really quickly say, you know, I don't like X, Y and Z and not go into a lot of detail maybe, and we'll get that on record. Hypothetical scenarios are tough to deal with, so -- and everything else is pretty standard. So with that, Mr. Zenner, we are ready to get going. Mr. MacMann? Yes, sir?

MR. MACMANN: Yes sir. We lack a translator, don't we?

MR. STRODTMAN: I can't yes -- anybody know how to do sign language?

MR. MACMANN: Not well enough.

MR. STRODTMAN: Mark Farnen, do you know sign language?

MR. TOOHEY: Only one --

MR. STRODTMAN: Yeah. And that's not the sign we are looking for.

MR. MACMANN: And we thank Mr. Farnen for that. We do.

MR. STRODTMAN: Is that okay? I mean --

MR. ZENNER: We'll have to proceed forward. Why don't you being and let me -- let me find

out --

MR. STRODTMAN: Okay.

MR. ZENNER: -- if we have one coming.

MR. STRODTMAN: Okay. So with that we will go ahead and I guess at this point we are ready to up it up to public input. So I will go ahead and open the public input portion of this evening and so come on up and don't be shy. Let me get my watch going first.

PUBLIC HEARING OPENED

MR. STRODTMAN: Mr. Farnen, we started your time as soon as you stood up. Just joking.

MR. FARNEN: I will be brief.

MR. STRODTMAN: We didn't.

MR. FARNEN: My name is Mark Farnen, 103 East Brandon, Columbia, MO. I have a short presentation that I do need to -- this is a specific -- this is a specific issue that relates to the regulating plan map that has been proposed. And I think there are several people who have commented on this at different times and this is an effort to, I think, address and correct the map. If you see on the exhibit, there is a piece of property at the corner of Broadway and Providence Road that is owned by Dan Hagan, and on this regulating plan map it shows an alley that bisects that block. Actually that -- that alley does not exist. It was vacated by ordinance on July 1st, 1963, by the City Council. That vacation of that alley was then further referenced when the City asked for additional right-of-way at that stubbed corner so that you could make a right turn off of Providence -- Broadway onto Providence. At that time that document also acknowledged, yes, that alley has been vacated and was done so in 1963. So since that is not an alley and since the process to correct the regulating plan map can be cumbersome and you would have to go and ask for a change to that regulating map, I would ask that that be eliminated in this instance and not drawn as such, though it would not be enforced as such in the future. Every other map that we can find is accurate right now. This is the assessor's map, and if you look at the red line that goes -- that bisects that property, the property lines for the Dan Hagan property and the properties to the north are adjacent and contiguous, and this shows no alley like it does across Providence. In the next block you can see there's two red lines and it shows an alley. This one is right. And so we would ask that the map be changed. In the -- I -- on the advice of staff, we would -- needed to ask for an amendment for that to be done. It shouldn't be done administratively; we should do it in an amendment. So I would ask one of you good-looking people to do that for us, please. Then I will conclude my remarks pretty quickly here. I want to thank you all. This has been a really, really, really difficult process, and it has been remarkably time consuming, and this is a hard way to make new friends, but I feel like I've gotten to know you all pretty well. I think that you have done a good job, and I think you have approached this with fairness and with respect to the people of this community in terms of trying to get it right. I don't agree with everything that you have done, and, in particular, I -- I think that we have -- I think that we didn't do right in terms of the neighborhood protection standards that have been adopted. The part that I don't like is that there is not a safety valve for people who own property in those areas who did buy it as an R-3 property and

now -- may now face some restriction on that use, including the fact that your own property could be used against you. And if you own two properties, and one has a single-family house on it, and you want to do something with the next door one, your own property is invoked and there is no remedy. There is no way to not do that because then that becomes the rule. I wish that there could be something adopted -- I know that you discussed grandfathering and didn't like that idea. I know that you discussed maybe it just goes on zoning, not use, and that was not approved. I wish it were. I wish that we could say maybe something else like if a property is going to be identified as the single family then it needs to be owner occupied, not a rental, because our -- why would we protect a rental against other rentals if that's what was next to it? Or on the C-3, I think the landscaping is fine, but I don't think that the -- but not giving a property owner the ability to have an automatic way to get out of it whether it's agreement with a neighbor, whatever it is, I wish you would reconsider that stuff. I think it is a question of fairness, and I think that you could still maintain the intent of the rule. We do this all over town in different ways. Sometimes we call it an overlay; sometimes we call it subdivision rules. But I wish you would really reconsider that at some point before this goes forward to the Council. Thank you very much for your hard work. I appreciate it and I would be happy to answer any questions about any line in the Code. I have read it.

MR. STRODTMAN: I think it's a challenge, Commissioners. Mr. -- Commissioners, any questions of this speaker? Mr. MacMann?

MR. MACMANN: One question of Mr. Farnen and then a question for staff and then a procedural question. I have three questions. Mr. Farnen, the assessor's map is from what year?

MR. FARNEN: That is the -- that's the one that is --

MR. MACMANN: Current.

MR. FARNEN: -- current -- that is currently on the Boone County Assessor's website.

MR. MACMANN: Thank you. Mr. Zenner, are the facts that Mr. Farnen presents them to the best of your knowledge?

MR. ZENNER: They are. We have actually had them presented by Dan Simon's office, attorney at law. I would have cut Mr. Farnen off so he could have saved his five minutes. We are aware of this. It was likely an over -- it is an oversight on our part unbeknownst to Farrell Madden when they prepared the regulating plan that this alley was formally vacated. The ordinance was attached to the documentation provided to us from Mr. Simon's office, irrefutable evidence that in fact this is not an alley, it is private property at this point, and is to be removed from the regulating plan as such given its location to the intersection.

MR. MACMANN: Thank you, Manager Zenner. With that question in mind, I have a question for the Chair and a question for Mr. Zenner. As this is a bit abnormal, and we -- if we are to move to amend this, when would we make that the amendment?

MR. STRODTMAN: This evening, once --

MR. MACMANN: Later on this evening?

MR. STRODTMAN: Yes, sir.

MR. MACMANN: All right. Thank you.

MR. STRODTMAN: Once the public input portion is closed. Any additional questions for this speaker?

MR. TOOHEY: Mr. Farnen, I just want to thank you for your comments. And I couldn't agree more with the neighborhood protection issues, and as you know, we've -- we've brought this up repeatedly and unfortunately have not found a resolution to this.

MR. FARNEN: You've still got a chance.

MR. TOOHEY: I agree with that.

MR. FARNEN: All right. Thank you all for your time.

MR. STRODTMAN: Thank you, Mr. Farnen.

MR. WAID: Good evening. My name is Tim Waid; I reside at 2104 Bluff Pointe Drive. I would like to load up a presentation, please. So I would like to piggyback off of what Mr. Farnen indicated about neighborhood protection standards. This is a picture of East Campus, and the black area is the group I represent, the East Campus Majority. That's the 212 parcel owners that have signed my petition. The white area which is basically east of Ann, is the parcels that are resident owned. So you are looking at a black area that dominates the East Campus Neighborhood Association. Those little white specks in the middle of the black sea, those are resident-owned properties in the middle of R-3. So basically that whole entire black area is R-3 zoned, and we're going to be dictated to by R-1 sprinkled throughout there, not very much at all. So we really need some property protection standards, not neighborhood protection, but property protection standards. Now, I realize you just talked about this on Monday, so I'd like to make some proposals. The current neighborhood protection standards apply only to lots that are other than R-1 and R-2, so it is very repressive or punishing to R-3 properties. This is going to hurt the facilitation of student housing in the East Campus. It targets smaller prop-- property managers like myself, not the big corporations who I think a lot of people are -- prefer to take their frustrations out on out-of-town corporations. This zoning -- the neighborhood protection standards that you've given me -- or us -- they're not simple and fair, but they are just more complex and more unjust to R-3 property owners. So when you think about protection for people like myself who own R-3 property in East Campus, we don't have the normal protection that most people in Columbia would have. Like most neighborhoods have property protection through their -- everyone's R-1 zone, so everybody applies themselves to a homeowner's association with covenants in architectural controls. But, you know, the area that I represent is R-3 properties. We have no homeowner's association, so we have this overlay. So what I would like to see is perhaps an amendment to neighborhood protection standards, particularly the applicability. I want to protect my R-3 property, but I also want to protect any R-1 home anywhere in town. And so, basically, the applicability of neighborhood protection standards would apply to all lots within urban conservation overlay district, only if that overlay language itself is amended to accept these standards. Otherwise the neighborhood protection standards do not apply to lots within urban

conservation overlay district, so we would more than likely not adopt those neighborhood protection standards in the East Campus majority area. Some of the other amendments that I would propose is you're doubly repressing R-3 property and owners like myself in East Campus by subjecting us to multiple layers of protection. The 29-2.8 M-C District dimensional standards summary and the neighborhood protection standards, it's like a double whammy that is repressive. So to preserve the language that you already have in there, you know, just go ahead and keep the amendments or the language that you already have in that 29-4.8 to all lots in R-MF districts that contain principle use. In other words, just add these two sections, these two points, that say, hey, is these people is this urban conservation overlay want to opt out of these neighborhood protection standards they can. All right. But it still applies to everybody else throughout the City if they have R-1 property. It's just repressive, very repressive, and as Mark Farnen indicated it could be done better. This is one way to protect everyone, including people like myself. If you take a look at that picture one more time, you see a neighborhood that is predominately R-3, subjected to the whims of the few, and that is exactly what is going to happen here in East Campus. We are going to move student development somewhere other than East Campus, probably downtown, and I think that's the opposite of what probably what you were looking to do. So, any questions? Thank you for your time.

MR. STRODTMAN: Commissioners, do you have any questions for this speaker? I see none. Thank you, Mr. Waid.

MR. COLBERT: Good evening, Caleb Colbert, 601 East Broadway. I just have a couple of comments to follow up on that have been addressed before, but I just wanted to bring these to the Commission's attention again. First, I represent the Barbara Altis Trust. The Trust owns the property at 1005 Cherry Street. You can see it there pictured in the middle of the screen. I want to address the -- the court height overlay. This was the -- one of the original regulating plans. You will see that that property was completely included in the court height overlay. In other words the entire property could be built to ten stories. In the most recent version of the regulating plan that court height area cuts the Altis Trust property in a third and two-thirds. And so we would ask this Commission to extend that court height overlay to the west edge of Hitt Street, at least for that block. That makes it consistent with the urban storefront building form standard along Broadway, and that seems like a clean break for the transition from ten stories to six stories. South of the property is the City parking garage, so it would have a minimal impact on adjacent properties if you move that to the east. So I did propose some language here to fix that particular issue. The second item I want to talk about was the M-DT boundary along St. James. The problem, as I see it, is we exclude property that is currently zoned C-2, while including property that is zoned M-1. Mr. Ott owns properties that are located along Ash Street and St. James. You can see under the current zoning they are zoned C-2. He also owns the two lots directly north of the C-2 property that is zoned M-1. The history on that C-2 -- on those C-2 parcels, they were rezoned to C-2 in 2008. At that time that rezoning had the support of the neighborhood and the support of the City Council, and it passed unanimously. In the current regulating plan we have carved out the existing C-2, which sort of leaves it in

limbo. So at a minimum we're asking that that be brought back into the M-DT district. That has -- that would be consistent with the zoning that was approved and has been in place now since 2008. Additionally, you will see that the M-1 that is west of St. James is brought into the M-DT district. We would respectfully suggest that it -- with that in mind it makes sense to include the industrial property north of the CT -- C-2 zoning also into the MT -- M-DT district, so that you have zoning that is consistent along St. James. So essentially, we are asking for that boundary line to be moved and allow the properties on east of St. James to be in the M-DT district. Again, those -- that's the language I would suggest adopting. And with that, I will be happy to answer any questions.

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

MR. COLBERT: Thank you.

MR. SHARP: Yes, my name is Paul Sharp, 1814 Cliff Drive. I come to speak in favor of the neighborhood protection in the UDO [sic]. I am also treasurer of the East Campus Neighborhood Association. And so I maintain the rules of the East Campus Neighborhood Association, and it is highly dominated by residents and not property owners. And living in the East Campus Neighborhood Association I really feel that we do need some protection, that there is just a continuing encroachment of rentals into the area, and, you know, we just at times feel powerless to -- to do anything about some of the losses of houses in the area, and the large apartment buildings that have been built in the area. So that's -- that's all I wanted to say.

MR. STRODTMAN: Commissioners, questions for this speaker? Mr. Sharp, how long have you lived in your home?

MR. SHARP: Twenty-five years.

MR. STRODTMAN: So you've been there through that whole process -- the overlay?

MR. SHARP: Yes.

MR. STRODTMAN: I see no additional questions, so, thank you, Mr. Sharp.

MR. NORGARD: Good evening. Peter Norgard, 1602 Hinkson Avenue. I'll start off by saying the stated intent of the UDC Section 29-4.8 is to preserve residential neighborhood character of established homes within multi-family districts and adjacent to mixed use or special zoning districts. I believe an unstated goal, but one that underlies the entirety of this whole discussion is that the protection standards are an effort essentially to affect greater balance between what those that live in a particular neighborhood would like to see and what the redevelopment community, particularly in the central City area, would like to see. I will say that I believe out-of-scale redevelopment is inconsistent with the stated goals of preservation, particularly within neighborhood -- neighborhoods such as Benton Stephens or, you know, even of East Campus, you know, established neighborhoods. Out-of-scale development typically benefit the redeveloper; however, they do impact the dynamic of the communities that they occur in, and typically they have perceived negative impacts on those neighborhoods, particularly lots there immediately adjacent to some of these redevelopments. You know, further increased parking stress is measurable and often negative to the characteristics of the neighborhood, and is particular to older

neighborhoods where subdivision occurred before cars even existed. I am going to convey a few comments from Ms. Janet Hammond, who was unable to be here tonight. I would like to see additional change -- some additional language inserted into Subsection B, paragraph 2 of 29-4.8 on the applicability of protection standards to not only include R-MF of development adjacent to R-1 and R-2 zoned lots, but to lots that are used as R-1 or R-2, despite their zoning. So, for instance, a lot of central City neighborhoods -- most central City neighborhoods in fact are zoned R-3; however a great majority of homes within those neighborhoods are actually used as single-family residences. And I believe some of those people deserve greater protections than the currently written Code would provide. And I would say that it's a subtle difference, but it is important to your quality of life, particularly those homeowners who are landlocked in sea of R-3 use or soon to be R-MF use. I would like to see the inclusion of a median setback standard for all buildings on one side of a block, within which redevelopment cannot encroach. There is some concern that redevelopment creep will gradually push lots towards the front lot line and, you know, the less aggressive 25-foot standard doesn't correct for that necessarily. They can't encroach further than 25 feet. Obviously, it won't creep all the way to the edge, but, you know, there's plenty of lots that are far, far set back from the street and so to put a new development in a neighborhood such as that where lots are really deep has a visual impact on the appearance of the neighborhood, and I believe the people that live in those homes again deserve some -- some additional protections. I would like to see modification of the existing building height standards subsection D to require architectural gradation otherwise known as stepping down any portion of a building within 25 feet of the rear side lots to a maximum height of only 24 feet. And I would also like to see an increase in side and rear setbacks an additional ten feet beyond what is normally required. You know, building height necessarily impacts the appearance of the neighborhood; therefore, it impacts the character of the neighborhood, which is the purpose -- you know, neighborhood protection standards are there to protect the character, so without these kinds of controls, we feel that neighborhoods won't be adequately protected. I would like to see the inclusion of an entirely new section -- subsection to address the issue of density and scale. I would like to see buildings in the R-MF district occupy more -- no more than a hundred feet of lot frontage and have a roof peak no greater than 35 feet. In addition I need -- any zoning districts that abut against an R-1 or R-2 or R-MF district must meet the design standards and guidelines spelled out in Section 29-4.7. And then the final thing that she wanted me to convey is that she would like to see the burden for providing additional parking in R-MF districts increased to the extent that parking areas on the side of lots are not permitted, specifically an RM-F district adjoins -- when an R-MF district adjoins an R-1 or R-2 zoned lot or if the use of the lot is R-1 or R-2, off-street parking provisions should be made at the rear of the structure. Obviously, this matter could be challenged at a Board of Adjustments hearing, but permitted side lots to exist is detrimental to the character of most neighborhoods and it's a practice that many of us do not like. Can I finish?

MR. STRODTMAN: Sorry.

MR. NORGDARD: Okay.

MR. STRODTMAN: I let you start and everybody, you know --

MR. NORGARD: All right.

MR. STRODTMAN: Commissioners, questions for this speaker?

MR. TOOHEY: I've got a question.

MR. STRODTMAN: Mr. Toohey?

MR. TOOHEY: So you've heard the concern from the other property owners?

MR. NORGARD: Uh-huh.

MR. TOOHEY: Do you think there's any middle ground to help give them a remedy to solve their problems?

MR. NORGARD: I do, but honestly -- so -- single-family residences, particularly in this part of the neighborhoods, don't necessarily have the means or the time to defend themselves against the development community, which often has people that do this fulltime for their job. And so, yes, there's a middle ground, but I just don't see how we can reach a middle ground because every time we ask for something it's shot down as being over aggressive or detrimental or draconian or whatever your choice word is.

MR. TOOHEY: Well, if we can put a middle ground in this Code --

MR. NORGARD: Uh-huh.

MR. TOOHEY: -- what do you think that middle ground is then?

MR. NORGARD: Well, I think the acceptance of certain of these standards and the -- you know, letting some of them go, and letting some of them stay. Some of the suggestions on their side I can understand their point of view. My wife is a landowner and she rents out places and we have a vested interest in this as well, but we also are part of a community. So I don't know how -- it's difficult to balance, in my opinion, when both sides are unwilling to hear each other, and to this date I haven't really heard either side see eye to eye on particular -- or specifics, if you understand what I am saying.

MR. STRODTMAN: Mr. Harder?

MR. HARDER: Quite a few on the list -- if you could pick one or maybe just a certain segment that you thought was the most important, what would you consider it to be?

MR. NORGARD: I personally think the insertion of the zoning -- the applicability standards, zoning use versus actual zoning, use versus zoning, so parcels that are zoned R-MF may be used as R-1. I feel that those deserve some protections. And I don't feel that it would be a major burden on the City to determine whether a lot is being used R-1 or R-3 or, you know --

MR. STRODTMAN: Ms. Loe? Excuse me.

MS. LOE: Mr. Norgard, that's actually one of the points you made I was confused by because currently the neighborhood protection standards do apply to any lot in R-MF that contains a use other than single-family or two-family dwellings. So it's protecting any R-MF that is used as one- or two-family --

MR. NORGARD: Well, if that's great --

MS. LOE: -- so --

MR. NORGARD: I'm conveying Ms. Hammond's comments.

MS. LOE: Okay.

MR. NORGARD: I didn't --

MS. LOE: I believe --

MR. NORGARD: -- thoroughly--

MS. LOE: -- that already is addressed. All right. Thank you.

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

MR. ZENNER: Mr. Norgard, will we have the opportunity to have Ms. Hammond's most recent comments?

MR. NORGARD: Uh-huh.

MR. ZENNER: As they do not appear to match what -- what was distributed to us.

MR. NORGARD: Okay. I may have an older version.

MR. ZENNER: No. The 11th version -- from December 11th, Number 2 is the version that I -- my understanding is is what you may have been reading from. However, the additional height restrictions do not refer to a maximum of building height to peak -- to the peak of the roof. That's why I am asking. We have -- apparently may have competing comments that Ms. Hammond's making.

MR. NORGARD: Well, I think she had concerns about redevelopments where the height standard was measured at the eave and then there's a, you know, 12 additional feet of roof height.

MR. ZENNER: The density and scale comment that you've read from the new section that she would like to have added --

MR. NORGARD: Uh-huh.

MR. ZENNER: -- does not give any indication of maximum roof peak height. It refers to a 4/12 pitch as the maximum. So whatever you were reading from, I would like to just have a record of so we can provide it for public comment or review.

MR. NORGARD: I am reading from comments that I shared with Ms. Hammond verbally, so I don't have a document of that.

MR. ZENNER: Okay.

MR. STRODTMAN: Any additional questions? I see none. Thank you, Mr. Norgard.

MR. NORGARD: Thank you.

MS. WALDEN: Hi, I'm Julie Walden, vice chair of the Disability Commission, and I composed a letter for -- from the Commission to you guys dated November 18th. And I am here to answer any questions you might have of the letter. If you don't have the letter in your first -- your recollection because it was a month ago, I can read it to you.

MR. STRODTMAN: Commissioners -- we did -- we did receive your letter -- for clar-- for clarity, Commissioners, any questions from the information that we received from Ms. Walden earlier? I see none, so thank you for your letter.

MS. CARSON: Good evening, my name is Sedel Carson, I am at 4802 Maple Leaf Drive. I am here on behalf of Tompkins Homes and Development, owned by Mike Tompkins. He was unable to be here this evening. There are a few topics that I would like to bring to your attention. The first can be found in Chapter 29-4.5, (c) (1) (i) d, providing climax forest and tree preservation. The requirement of the 25 percent of preservation be reserved as a common lot reduces the number of lots available and puts the burden of maintenance on the homeowner's association. Also, the requirement that the 25 percent of preservation exclude the trees within in the stream buffer is, in our opinion, somewhat excessive. We would propose that the 25 percent preservation requirement be allowed anywhere on the property rather than on common lots, and that it can be protected with a conservation easement. In addition, we would propose allowing the 25 percent preservation requirement to include those already in the stream buffer. Next I would like to address time constraints for a preliminary plat found in Chapter 29-5.3. Under current regulations the developer has up to seven years to develop any percentage of a preliminary plat. The new standards would change that to requiring one-third of the plan be developed within three years from approval. We feel this is unreasonable, particularly, for large tracts. It simply does not give the developer enough time to do the work necessarily -- necessary. This includes utilities, design, permits, road construction and et cetera. We felt it benefits the City as a whole to be able to look at a longer range plan rather than rushing the development to meet the three-year time constraint. We would propose that if one third of the development is to be completed, the time frame be increased to the current standards of seven years. Finally -- excuse me -- I would like to address the number of entrances for subdivisions as noted in Chapter 29-4.3. Currently, subdivisions are able to have up to 99 lots before a second entrance is required. This allows developers to plan lots accordingly, and construct additional entrances within the plan timeline. At this time, Boone County allows up to 50 homes per entrance, and the new standards of 30 homes per entrance, as proposed in the UDC, would hinder the neighborhood design process and would not allow the best use of the land design. We would propose that if the current standard of 99 homes is considered unacceptable -- we do understand that it was referenced from the fire code -- that the City at least match the current County standard and allow 50 homes per entrance. And that's all I have.

MR. STRODTMAN: Commissioners, questions of this guest? Mr. MacMann?

MR. MACMANN: Yes Ma'am. Thank you. It might have been communicated, and my fellow Commissioners can help me out, but on the preliminary plats we set it at three years, allowed a one year extension and lowered the one-third requirement to one-quarter. Did I catch all of that amendments that we did? And an additional request can be made beyond that if a hardship is bearing.

MS. CARSON: Okay. That was the information I --

MR. MACMANN: All right. I just wanted to get that on the record in case --

MS. CARSON: Okay.

MR. MACMANN: -- some of it wasn't clear. Thank you.

MR. STRODTMAN: Additional questions, Commissioners? I see none. Thank you.

MS. CARSON: Thank you.

MS. ESSING: Good evening, everyone. I'm Katie Essing with the Downtown CID. And we submitted a letter to you already, so I wanted to see offer a chance to answer any questions. A few things were already brought up by Caleb and Mark Farnen, but we did have a few questions on that open space, if we would like to discuss that more. And then an overall question is on the quarter-block exemption. And sounds as though we may have been interpreting this incorrectly, so if I could ask Mr. Zenner to just clarify that 100-foot façade.

MR. ZENNER: Yes. As it relates to the first point in Ms. Essing's letter to the Commission, on the quarter-block exemption, it was referring to exempting lots sized smaller than 17,100-square feet, a typically downtown quarter block for expansions not exceeding 75 percent of the coverage of the parcel or for properties on the National Register of Historic Places. As we have indicated, and I believe we have previously discussed, National Historic Register of Places, national designation does not result in any additional regulatory of process for the City of Columbia. You have to be within a defined HP overlay for such additional regulatory standards to be identified during our building permitting process that may impact properties. However, there is a provision within the Code that does deal with an exemption as it relates to façade composition. It is on Page 184 of the Code under paragraph 2, façade composition, item number (iv) -- Roman numeral number four that says, "Individual infill projects on lots with a street frontage of less than 100 feet on a block face are exempt from the overall façade composition requirements for that block face, but shall include a functioning street entry door," which would be no different than any of our other projects. So the façade composition components of that that would be required for baying and window placement and differentiation are all addressed through that exemption, which I believe would take care of the concern that has been raised by the CID that there may be overly onerous requirements placed upon small lots that are seeking to redevelop or as an infill project. So a full teardown, rebuild that has less than a 100 foot of frontage would be exempt from this façade requirements; however, if it is on a road -- on a street frontage, it would need to meet those building form standards that are defined either as the urban general or the urban shopfront. So you would still have particular design requirements that may apply in those instances based on the specific building form standards. But the -- the façade composition requirements that would also apply in those building form standards would be exempt by that provision.

MS. ESSING: That does help a lot. Thank you. And I think our main concern was protecting those unique infill redevelopments downtown and this small development. So thank you for that clarification. For the open space question, I was just reading into the details. It has gotten much better with the changes that you guys have made, and we just want to clarify how much has to be on that bottom floor and what would apply. For example at Tenth and Broadway, we've got a nice new development that's going to have MidiCi Pizza on the bottom, and would that count as open space or like a Harold's Doughnuts example where you've got retail on the bottom level, and would that apply? If not, we'd like to propose that you can meet more of that open space above ground level through things like

the rooftop decks and a balcony and that kind of thing. Because some of those lots that open space may have to be in an alley that may not be as appealing for -- for the user. And then one last -- and I don't think we've talked about this yet is that parking setback line there's 24 feet, which could be quite large in the downtown area. Recommended that could be changed to four to six feet. That would be similar to the lot at Eighth and Cherry near Bank of America. So maybe it's been covered and we missed it, but the 24 feet seems really large for downtown. And I think that was all of the comments that weren't covered by other speakers.

MR. STRODTMAN: Commissioners, any questions for this speaker? Ms. Loe?

MS. LOE: I was just wondering if staff wanted to respond to Ms. Essing's questions about where open space may be provided on upper floors, and if retail space could be counted. And then the parking setback line I would have to check, so --

MR. ZENNER: I believe we have adjusted the parking setback line provided landscaping is provided consistent with a -- the landscaped strip or landscaped buffer requirements that are already defined within the Code, so that issue has been adjusted. I believe that was reflected in the errata sheet, so I will have to go back and look. I believe we have addressed the issue of open space. It does not apply to any building that does not have residential development in it, and it only applies to buildings that have more than four units of residential. So unless I am incorrect, Ms. Loe, this was something that I -- I believe we worked on extensively, so -- and that open space can be located anywhere within the building, you know.

MS. ESSING: Okay. Because we were reading -- it looked like it might still be 67 percent on the ground floor level, but it can all be up above --

MR. ZENNER: Those graphics -- the graphics that reflect the private open space area that are in the M-DT will be amended accordingly.

MS. ESSING: Okay.

MR. ZENNER: And they are all being unitized as well to the appropriate percentage of landscaped area or open --

MS. LOE: Open --

MR. ZENNER: -- private open space criteria.

MS. LOE: The -- I believe the statement I would look at is private or open space may be located on any floor --

MS. ESSING: Okay.

MS. LOE: -- or any combination of floors, meaning it can be split up in any way or any location on the lot. So we're trying to clarify it could be located in the setbacks or in any of those areas --

MS. ESSING: Okay. We appreciate that. We just wanted to clarify the --

MS. LOE: -- provided it is assessable to all residents or tenants of the building.

MS. ESSING: Okay.

MS. LOE: That's the only requirement.

MR. ZENNER: And I believe that is in the errata sheet because I recall --

MS. LOE: I was reading from the errata sheet.

MR. ZENNER: -- I -- and thank you, because I do not, unfortunately, didn't make my copy of it and I don't have it up right now. That is the re consolidated open space standard that we did move actually toward the front of the M-DT requirement, so as an individual was reading M-DT and looking what the requirements are, they are no longer embedded in the building form standards. Open space is now covered as a free standing item under a previous heading, as a matter of fact. So it -- it made more sense for a reader to be able to read it all at the beginning of the Code. It will actually apply on page -- the revision -- the revised text will be actually placed on under paragraph number 7, which is on page 188 of the Code -- the public hearing draft of the Code. And that new standard, new language is actually within the errata sheet itself. The parking setback modification also was addressed as an acknowledgement to larger parcels that may be split, so this deals with the overall street wall requirement. It was the alternative to this street wall to where if you did not build out your entire development site -- let's for instance say you had a 100-foot long parcel and you only wanted to do an infill building of 50 feet in your first phase, you would -- by the way that the Code was originally written, you would be required to put a street wall up. We have revised that section of the Commission's proposed revision to that to allow for a screening buffer to be installed on the unimproved portion of the site as long as it is not been utilized as a parking area initially, and that then allows it to come forward. And even with a parking lot installation, you could pull the parking forward with the screening to be more similar to what the Boone County National Bank -- or Bank of America parking lot is there at Eighth and Cherry.

MR. STRODTMAN: Commissioners, any additional questions for the speaker? Thank you, Ms. Essing.

MS. ESSING: Again, I will thank all of you for your work and hours. It is very much appreciated. Thank you.

MR. LAND: Paul Land, residence at 4104 Joslyn Court. I want to make sure I've got that right on that parking setback for downtown. The request I understand from the CID is to reduce it from 24 feet to six feet. I want to make sure I understand that that was done. I -- it is hard for me to follow all this errata sheet. It's got the word error in it, it sounds like to me. But I want confirmation on that.

MR. ZENNER: It has only been amended, Mr. Land, in the instance in where you meet the criteria by allowing it to be pulled forward. And if I recall correctly, it is still a -- an absolute as it relates to our two frontages on Ninth and Broadway. That parking setback line is not modifiable for a parking area. If it is not a developed parking area, it is just open space, you are not required to put in the street wall. You have the option of landscape treatment.

MR. LAND: And it is reduced from 24 feet to six feet?

MR. ZENNER: In -- in the instance where you are not using it for a parking area, that is correct. You can put that landscape treatment within the six foot landscape strip --

MR. LAND: What about a lot that is being used for a parking lot?

MR. ZENNER: Pardon me?

MR. LAND: A lot, it will be used for a parking lot? A platted lot that will be used for parking service?

MR. ZENNER: Actually, I would have to look. We can provide you that answer before the evening is done.

MR. LAND: Okay. That's fine. My -- I'm abdicating for the reduction from 24 feet to six. Thank you.

MR. STRODTMAN: Any questions? Mr. MacMann?

MR. MACMANN: Just a -- thank you, Mr. Land. I had a question for the Chair. I apologize.

MR. LAND: Oh, okay.

MR. MACMANN: Could you direct our speakers to elevate the microphone to their mouth, or vice versa? I am having a little bit of hard time catching --

MR. STRODTMAN: Got you. Thank you for that.

MR. BENTLEY: I'm Clyde Bentley, and I live in a historical home at 1863 Cliff Drive in the East Campus area. And if I had my way, we would have no zoning at all. We would just have builders and residents who agreed upon a look and feeling for a city and got along and produced cities that we could all live in. Unfortunately that has not been the case in many times. In another life I spent many, many hours at zoning meetings, planning commission meetings, and city council meetings, and I really respect what you've done because I've -- I've seen this work before, and I know that this is difficult because zoning is not for the individual. Zoning is for the community and for society. It's because the individual can't do this themselves that we have zoning to get together. I think you've done a good job of trying to get this. I would love to see our developers be able to zone -- build projects in East Campus that fit in with this unique atmosphere that you see in almost every university city in the United States. We have neighborhoods like this that have a special character that we try to protect. I am, for that reason, in favor of the neighborhood protection plans, because I think it's an attempt. It's not a perfect attempt, but I think you have done a good job of trying to -- to make this work and give us neighborhoods that do have an atmosphere that we can all like, that improves property values as they go up. And, Mr. Toohey, you asked about a middle ground. There is a middle ground. I think it is one you have tried to avoid, and that's architectural review. If we had -- if we had buildings and developments that did maintain the character of a community, I don't think there would be a problem no matter what the zoning is. That's a very difficult thing to do, and the alternative is to try to do it through zoning, and it's an imperfect attempt. But I think you have done a good job, and I would hope that you would just stick to your guns, not let property line creep move things out; and just kind of see if we can come up with a city that we all love as we do. So, thank you.

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

MR. GRIGGS: Good evening. First, I am Dave Griggs. I have -- had a business in the City limits of Columbia for over 41 -- actually, 46 years I have worked in the City of Columbia. And I live at 6420 North Highway VV. Tonight, I'm wearing my economic development hat, and this is more of an expression of a concern that may need to be addressed because I'm frankly confused. The old Code, Section 20-1 lists a permanent use in District M-1 industrial, clearly states manufacturing and processing. I have a packet of all this information for you if you would like. And the conditional uses clearly stated in Section 20-3, as a manufacturer compounding or processing of hazardous materials. Interesting what hazardous material may be, but nonetheless. This new draft on Page 29 lists heavy industry, the processing, manufacturing or storage of products under potentially hazardous conditions, such as the creation of products and extracted raw materials -- interesting or confusing definition. And the use of flammable or explosive materials, this may include, but not be limited to concrete plants, electrical plating works, forges, galvanizing works, sheet metal shops and other similar uses, but I would suggest that heavy manufacturing might be 3M, Schneider -- I think is how you pronounce it -- Electric, perhaps Kraft Foods, American Air Filter and other concerns. In the new draft on page 134 from the September public hearing of 2016, footnote 444, which refers to heavy industry that is listed purely as a conditional use in M-C, M-1 and M-U, with a footnote of 379, says, combines current asphaltic concrete plant -- concrete plants, electroplating works, forges, galvanizing works, manufactured compounding of hazardous materials, monuments and dimensional stone works, photo engraving, planing mills, plumbing and sheet metal shops -- and my real point -- plants and facilities. I would suggest that probably my business, which is a retail business, could be considered a plant or facility because we do some things. Certainly 3M, Kraft Foods, et cetera are plants and facilities, and shouldn't -- at least if that is the current interpretation, I strongly urge that not to be a conditional use. We are working today with two significant companies who want to locate significant investment and job creation in Columbia, Missouri, and I would tell you if I went to them and said, oh by the way, we are changing our zoning code to make your food processing plant, manufacturing plant, distribution center, a conditional use, and you have to go to the City Council to get permission to even site your lot, and divulge to your competitors all the competitive information that you have worked on for six months and give them a year's lead time to combat what you're trying to do, is just not -- I don't think we intend to do that. If, in fact, it needs to be a conditional use, it needs to go to the Board of Adjustment and not through Council. But it should not be those companies -- that kind of investment should not be a conditional use. It should be a permitted use. I've got absolutely no problem if somebody is compounding dynamite or something, that ought to be conditional use, or producing nitroglycerin to make a product, that's probably a conditional use. But to manufacture hot dogs or rice cakes or stethoscopes that 3M makes, and things like that, that should not be a conditional use, in my humble opinion. So we continue on, on the same page of 134 it -- it -- I'm back to plants and facilities. That's the major concern. I have standard prohibiting significant adverse impact currently applicable in C-P have been made. Other notes, "Combines current bottling plants, canning and preserving factories, carpentry, cabinet and pattern shops, flour mills, feed mills, grain elevators, processing ice plants and

chemical laboratories added as C in M-C". I would ask what the interpretation of the 50-plus million dollar investment of Northwestern radiological isotopes might be in that respect that combines teams with the largest research reactor in North America and will produce a medical radioactive isotope that is used by over 50,000 people a day in the United States, and this will be the only source in North America for that. I urge you to really make sure that these are permitted use as opposed to a conditional use. A whole lot of jobs and tremendous economic development is dependent upon that, in my opinion, and I have all this information for all the members of the Commission if you want. I would suggest you probably have all the information that you've ever wanted to see in your life already. But that's it.

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

MR. MACMANN: Again, just a point of information. We went over many of the businesses that you mentioned, business by business, and I think Mr. Zenner can maybe flush this out a little more and maybe put some minds at rest. 3M, Quaker Oats, they're fine, they're permitted use as their primary -- what is the appropriate word here -- their primary --

MR. ZENNER: Primary business function --

MR. MACMANN: -- their primary business function is not making dynamite or something like that. Now, as far as the radio [sic] isotope sales, is that on campus?

MR. GRIGGS: No, it would be at Discovery Ridge. It's actually on a University property but I would just tell you that I would --

MR. MACMANN: -- and that's --

MR. GRIGGS: I understand. That's completely --

MR. MACMANN: We can't do anything about that.

MR. GRIGGS: I clearly understand that, but I will tell you that that's going to be a whole new subindustry in our community. I firmly believe that. And all those facilities will not be located in Discovery Ridge.

MR. MACMANN: I think we've left it a primary use test; isn't that what we did on business by business --

MS. LOE: We did.

MR. MACMANN: -- to make sure things weren't conditional, but were indeed permitted use.

MR. GRIGGS: At least as I read the documents, it's just not very clear. And maybe it is, but that's really why I am here, because I'm --

MR. MACMANN: Well, we had a --

MR. GRIGGS: -- really concerned about that.

MR. MACMANN: And I don't mean to take up much of your time, it's just --

MR. GRIGGS: No, that's fine.

MR. MACMANN: -- to clarify, because this -- this concern has been brought up. There have been other property owners who were concerned that what they were doing would become conditional

rather than permitted, and this would perhaps in some way infringe upon their rights. In general, we didn't come up with too many instances -- and it's impossible to answer with every --

MR. GRIGGS: I understand.

MR. MACMANN: -- thing. And I don't --

MR. GRIGGS: I understand and --

MR. MACMANN: -- understand -- I don't know the --

MR. GRIGGS: I'm talking about what I would consider. I would consider the companies that I mentioned to be, quote/unquote, heavy industrial manufacturers, and if that is the case, then everything I've seen in here makes that a conditional use.

MR. MACMANN: We had --

MR. GRIGGS: Plants and facilities --

MR. MACMANN: Maybe Mr. Zenner can speak to us --

MR. GRIGGS: -- is an extremely broad term.

MR. ZENNER: We can probably resolve this matter by the fact that Ms. Russell will be making an amendment to the definitions of both heavy and light industrial to provide the clarity that is needed as it relates to what constitutes a heavy industrial use and what constitutes a light industrial use. And that will be based upon the -- will be based upon the amount of that business activity that is being conducted within a wholly enclosed structure, which will then put to rest the concern as it relates to 3M and anyone else, because 90 percent of their business operation is within a structure.

MR. GRIGGS: Certainly.

MR. ZENNER: So that -- that is -- that's -- there's an amendment pending. We will make that amendment later this evening to address as Mr. MacMann has pointed out the concern that has been raised by others, and we do not disagree, Mr. Griggs. I think the definitions are slightly unclear. I have received the call from REDI as it relates to what happens in the new Code, I've paused greatly and then ran to my boss and said I think we have a problem. So we are trying to make sure that we don't definitely dissuade industrial businesses coming.

MR. GRIGGS: Excellent.

MR. ZENNER: So we'll -- we'll address that this evening, and I think that that -- hopefully the way we are going to handle this will make everybody satisfied.

MR. GRIGGS: That's the intent and full purpose of my presence. I want to thank you all for your time essence and gazillions of hours of work on this project. Thank you very much.

MR. STRODTMAN: Thank you, Mr. Griggs.

MR. ZENNER: Mr. Chairman, before an additional speaker comes up, I would like to respond to both Ms. Essing and Mr. Land's questions as it relates to the parking setback --

MR. STRODTMAN: Yes, Mr. Zenner, please.

MR. ZENNER: -- as I have feverously looked through the errata sheet as well as looked through the Code to find out if we had amended the front setback. It may be that we have covered this issue so

many times or we have been in session for such a long time that you start to think things exist that don't. It is not addressed within the errata sheet as it relates to a modification of the parking setback line at all. The Code is very clear that the parking setback line is 24 feet. It is absolute from ground through maximum building height as it relates to buildings that are on Ninth or Broadway. The 24-foot parking setback line on any other street only applies to the ground floor than in any other area in the M-DT. The parking setback line becomes the required building line at the second floor and above on any other street other than Ninth and Broadway. The issue being you can have a parking area on your ground floor as long as it is behind a building. That is what the intent of the Code was, off of an alley, behind a building, but not forward of 24 feet from the adjacent property line. What I believe Ms. Essing and Mr. Land are asking you to do is to reduce that parking setback line from four -- anywhere between four to six feet. We have allowed landscaping to be added as an option to building a street wall. And that landscaping buffer, as would be defined in the errata sheet and it would be inserted in page 187, basically is to address the issue, and it cross references the landscape buffer strip that we refer to where we separate parking areas outside of the M-DT from the adjacent road right-of-way. So the option exists for the Commission, should you decide as you deliberate this evening, to potentially eliminate the 24-foot setback which is derived out of the idea that we wanted a usable bay of commercial development or some development between the street and a use -- vehicle-use area. If you choose to eliminate that, that is -- one option is you could reduce the setback, and basically the provisions for landscape treatment would need to be consistent with what you have for what the street wall would require. Or you leave the existing 24-foot parking setback as it is, and that is basically what it is required to be, your parking lot cannot be pulled forward to the parking setback line. There is no provision that I am looking at, and unless, Mr. Teddy, you recall making one, I don't see it here.

MR. TEDDY: Yeah. The idea is that if there is going to be anything between 24 feet and six feet of the front lot line, that there would be solid screening. That that -- that would be one of those occasions where a street wall would be required. And then I believe the Commission -- the Commission's opinion that it doesn't necessarily have to be hardscape, it could be landscape barrier.

MS. LOE: That we did add.

MS. RUSHING: Yeah.

MR. ZENNER: Yes. That will be added. That is part of the errata sheet to allow for the softscape to be put in in place of the hardscape. I know we did discuss within work session the potential to allow perimeter treatment similar to what we have seen for our other parking areas where we have Bank of America, you have Boone County -- our Boone County parking lot, the one for Landmark Bank directly across from us, to potentially exist with street -- with landscape treatment between it and the parking area. However, that has not made it into this Code. So if you decide -- if you desire to do that, that would require an amendment to reduce it to no less than six feet. And the reason I use the six feet is because we have a landscape buffer strip standard already in the Code which could be applied in those

instances. That is a decision of your own, and just for clarification for Mr. Land and Ms. Essing's questions, I offer that.

MR. STRODTMAN: Thank you, Mr. Zenner. Any additional speakers?

MR. OTT: My name is John Ott, and I reside at 212 Bingham. I am a property owner downtown. I appreciate the clarification on I guess it's 29-4.2 on the hundred feet, less than a hundred feet. There are no requirements for the fenestration, if I am using this -- if I am saying this correctly, and I -- I appreciate the open space, the flexibility if that is in the Code. And so, you know, it appears that there is opportunities to do mixed-use-projects, smaller scale ones and have, you know, do it with a creativity. The only -- the only question I have and it is a question I don't know the answer to, but when I look at a project that -- and I've used this before, like Harold's Doughnuts, where they put -- it's mixed-use and they have a few apartments, maybe fewer than 15. I don't know if it is bedrooms or apartments, but it is a small scale, and they don't have parking on their property. Is -- today, would it -- would you be required on a project like that to put parking in? And if that is the case, would you consider not requiring that with projects that size, because I think those are the kinds of projects we'd -- we would want to encourage, and I do think that if there are parking requirements on projects those sizes, it might prevent those kinds of projects from being built because of the amount of space it would take up. And so -- and then I have one other question, and that is on a -- on a -- you know, case studies help me, but on a project like Cafe -- let's say Café Berlin, where currently the building is oriented to the corner, and if -- let's say for example down the road we want to add on to that, if the property line is less than a hundred feet. And I don't know if it is, or even which -- which property -- which direction you would take the hundred feet, how would that work? Would you be able to, with the fenestration or the Codes, would you still have to build that in addition on -- out to the -- to the street line or could you add on to that on the same building line that, you know, which I would think would be more attractive,. But does anybody have the answer to that?

MR. TEDDY: Yeah, we did put amending language in there to anticipate that situation. In fact, we used that as an example that if -- since it doesn't conform to what will become present M-DT, we would not require an addition to move to the required building line, just for the sake of consistency with the regs. So it could be treated as a building that can expand. And because it was built legally under a different Code, it wouldn't have to --

MR. OTT: Okay. Thank you for that clarification.

MR. TEDDY: You're welcome.

MR. OTT: And again, I just want to -- it seems like a lot of the things have been covered, but do want to -- would again ask you to consider about an exemption on small-mixed-use buildings in regards to the parking. So, thank you.

MR. STRODTMAN: Questions, Commissioners, questions for this speaker? Mr. MacMann?

MR. MACMANN: I had a -- let's just put your developer's hat on here for a minute. Let's go back to Harold's for a minute. We've got, I don't know, a dozen units in there; we've got Harold's downtown --

or in the first floor. Do you think it's burdensome to meet the parking requirement by some satellite parking?

MR. OTT: You know, for some developers it might be. For example, when -- the gentleman that did that project, that's his only project. That's one that he worked on. You mentioned the insurance agent. You know, some people that, you know, they're property owners and they want to develop their property, but they really don't have other, you know, available property in the district or nearby. And so, I mean -- and I do think that might be a burden for -- for -- and I really don't think for those size properties it's necessary, I think, you know. We ought to encourage those kinds of projects, and if we don't, if we have that requirement it may prevent some from doing it. You know with the larger scale projects, I understand and -- you know, when they have a bigger footprint, and so on, you can have a -- a way to access a parking area within the property, and so on, because they usually go higher and they have bigger footprints, they can make those numbers work. But -- but for the Harold Doughnut's guy, I don't think it would be -- it was possible on his property, and I -- I do think it would have burdened -- would have been a burden for him on that.

MR. MACMANN: I -- that's the point I was getting at. If he had put parking on the first floor or something, you know, that -- that's not economically viable. And that's why I was wondering about -- that's why if you put your developer's hat on a minute for -- say that's four or five spaces that they have to contract up somewhere, I don't know what the rates are in that building; they're pretty notable. But I'm just wondering if that shuts that building, you know, that shuts that project out if we add three to four to five parking spaces to it because I'm with you there. I agree with you. Those are the type developments that I would prefer to see.

MR. OTT: Yeah. I don't even know if -- I mean, where do you find those spaces? As the land is becoming more valuable, it is hard to find someone's going to sell you -- you might be able to buy spaces in a parking garage, but I think that's -- that actually works against the, you know, the prosperity of downtown Columbia because we are using up parking spaces for residential purposes in our commercial parking garages and it's hurting the businesses and people's use of downtown who live outside of downtown. But -- and in many cases, and I think as time goes on, there'll be many people living down here that won't actually have cars. And that's what I think we need to encourage. I think -- I think we'll get there, but -- so anyway that's --

MR. MACMANN: I just -- I just wanted to get your input because I know you've done a lot of these small-mixed-use things and things are changing. I just wanted to get your input there.

MR. OTT: Yeah.

MR. MACMANN: All right. Thank you very much.

MR. OTT: Thank you.

MR. STRODTMAN: Commissioners? Mr. Ott, I have a question for you. You reference the -- and not that I disagree with you, because I agree with a lot of what you said, but you don't believe that

those three to four cars should be parked in a commercial parking garage, and you don't believe that it should be provided on the parcel that they are living on. Where do they park --

MR. OTT: Well --

MR. STRODTMAN: -- that doesn't take away from the business --

MR. OTT: Yeah. I know I --

MR. STRODTMAN: detail -- (inaudible).

MR. OTT: -- and you might -- I don't know how appropriate it is to discern between students and then people who maybe get in their cars and they drive away. But the problem I think with -- in regards to the parking garages is you get people parking cars there, you know, 24 hours a day, 7 days a week, and then it becomes -- so, you know, I have -- I have a, let's say, the Berry Building repurposed the warehouse. And, you know, those folks have parking passes, but they get in their cars and they go somewhere else during the day, so it frees up parking spaces. And, you know, -- but, you know, the ones that are a problem are the people that don't use their cars and they sit there and they take up space. And I think a lot of the smaller -- you know, the larger buildings will probably always be students -- I believe student housing because if you have to live with students, then probably it's all going to be students. You're not going to want share your space with students. However, the smaller ones in many cases, and what I've found in my buildings that you will find, you know, you will find people who aren't students who are moving their cars and freeing up spaces, which I think is how it's sup-- should work, or can work better.

MR. STRODTMAN: Thank you. I was just curious. Thank you, sir.

MR. OTT: Yeah. Thank you.

MR. MEYER: Jim Meyer, 104 Sea Eagle Drive. I will refrain from making a speech this evening. I do want to echo the comments that the representative from Mike Tompkins made. I am concerned very much about the increased cost of lots, and therefore, new housing, based on those subdivision standards. I would also like to echo Mr. Farnen's comments about neighborhood protection. I think some of the ideas that he mentioned that you've considered and not adopted should be reconsidered. But to go back to the subdivision standards for a moment, Section 29-4.5 on page 262, I can give you the entire citation, but I think you can find it in the middle -- the lower middle of that page. There's the discussion about trees in the stream buffer not counting towards the 25 percent climax forest preservation. And when we had this discussion in that segment, I -- the rationale for that I recall was just that City staff thought that more trees were better and developers were getting a break by double counting. I don't think that's a very rigorous cost benefit analysis. I think if you actually looked at a subdivision developed under a rule set where the stream buffer can count towards the 25, versus where it doesn't, that will make a very significant difference the number of lots on a subdivision, and therefore, the cost of that division -- subdivision will be -- will be spread over fewer lots, raising the lot costs, thus, raising the house costs. And I think that is a problem for affordable housing. I think we ought to just think very carefully about the dollar cost tradeoff for those extra trees in terms of housing affordability. Thank you.

MR. STRODTMAN: Commissioners, questions for this speaker? I see none. Thank you, Mr. Meyer.

MR. CLARK: Good evening, all. John Clark, 403 North Ninth Street, an attorney and CPA. I will note that both those professions are intensely property oriented, so they are very conservative professions. They care a lot about -- and certainly in law school about property rights and these kinds of things. So I am licensed in both of those and practiced in both of those. So many things to say, just not enough time. I am here to a large extent to defend what you've done in neighborhood protection and encourage you to go much further if you can. Why do I say that? What I've heard, and what I've heard discussed, is basically a -- a conflict around property rights. And so the point is -- but it is really whose property rights? Is it those who -- the property rights of people who are using a property to live on, to use, this kind of stuff, a use value or is the property rights of those who basically own property to invest and get a return, otherwise known as the highest and best use, which has dominated lots of thinking for lots of times, but actually is really quite inimical to good neighborhoods and a good community. So there has to be some kind of balancing between those rights. What I believe is that when the Council blanketed -- blanket zones as R-3 or R-2, large portions of our town back in 50s, 60s or early 70s, actually they created a massive imbalance between those two kinds of rights. Now they may have thought they were doing good things, but actually it's a very long time ago, and so things have played out and happened. For instance, in my neighborhood in North Central, I believe, in Benton Stephens, I believe, to some extent in East Campus it was older, and -- but west, in say the west central area, actually whether it was zoned R-2 or R-3, a predominant use that developed, and had been there actually for a long time before these -- these zoning was done, has been single-family use. And so time has kind of de facto how people made their choices, their economic choices, has kind of clouded this issue about what Council thought it was getting out of blanket zoning. But if this imbalance was created then, it was created by Council action, it was not initiated by property owners as far as I know. It was just dumped on. It may have been thought that, oh well, we just are going to need to have more density and so forth. And maybe if all of those areas had developed all apartment houses, that would have been fine. But that isn't the way it's happened. So now we have large areas where the residents, both owner occupants and tenants, use properties primarily for their residential use and not for their investment use, how much money they can borrow on it at the bank, whether it is retirement, whatever it is. So I would basically say that the neighborhood protection provisions, which I think need to be strengthened and are too weak, but certainly the ones you put in now are basically a modest attempt to redress this imbalance which is way, way -- I'm going to my left -- way, way over here in favor of property rights.

MR. STRODTMAN: We need you to speak in the microphone so we can record it.

MR. CLARK: And it needs to move them back to the center. It's not taking. First of all under the constitution, zoning is not a property right in the same sense as other property rights, the property to own, sell, et cetera. It is not considered unless you zone all uses off of a property, so this idea of this -- the restrictions that are being proposed and they are some -- they are somewhat restrictive, I think are

modest, I think they will be modest in their effect on the returns of the property owners who were affected, and so, I think you should -- should retain them. I should tell you that people talk about the new subdivisions and their restrictive covenants. When those were developed long before this, they built in the property right protections about how high you could build and the next door, and all this kind of stuff into their restrictive covenants. We cannot do that in the built environments, say, of the central city, because they were built long, long ago, not as big subdivisions. We have a long history in this country of gradually the government trying to create a kind of set of restrictive covenants, a minimum set of standards, very much like what is desired by homeowner's associations. That's the origin, for instance, the public nuisance laws to replace private nuisance actions. I encourage you to stick with the neighborhood protections; hopefully strengthen them tonight, as a matter of actually redressing that balance which is way to over in the favor of investor property owners, and move it back into the center. Thank you very much.

MR. STRODTMAN: Mr. -- Commissioners? Mr. Toohey?

MR. TOOHEY: I've got a quick question for you. So being a lawyer and a CPA --

MR. CLARK: Uh-huh.

MR. TOOHEY: -- when did you -- when did you buy your property? What year?

MR. CLARK: I bought it in 1984.

MR. TOOHEY: Okay. So you knew your property was zoned R-3 --

MR. CLARK: Uh-huh.

MR. TOOHEY: -- when you bought it? So you -- and being an expert in those other fields, I mean, you knew this was potentially a possibility --

MR. CLARK: Actually, I didn't know then. I hadn't gone to law school then.

MR. TOOHEY: Well, I needed to ask that question. So -- but you still -- I mean those were zoned R-3, and so you had the ability to go in and research what R-3 zoning meant, which means that you knew that there was a possibility of extra -- or additional uses compared to R-1 properties. Correct?

MR. CLARK: Yes. Actually, so the answer to your question for me is very simple. I'm an unusual person. I ended up with a CPA. I mean, it took me 26 years to get an undergraduate degree, then I graduated high in the CPA world. I taught myself tax law. I then went back and -- left Williams Keepers and went to law school. I'm sorry. Using me as the standard to measure whether everybody else should have been able to research, frankly, I consider offensive and a joke. And actually, what we know -- for instance, think about the 1993 floods when nobody in the real estate business bought property ever thought the Missouri River was a threat to their property and that they were in the flood plain until the flood came up. I just don't find that to be a useful argument and so forth. Now, I must admit, if we are back in the 60s, a few years just after this, that might be, but times have changed. A whole bunch of people have made their economic decisions, as you know, in the real estate profession they changed all kinds of standards about disclosures and so forth once everybody realized you really do have to do these.

I think this is an appropriate updating and appropriate balancing of the property rights of owner occupants and tenants who use properties in the central city, which is where we're largely talking about.

MR. STRODTMAN: Thank you. Thank you, Mr. Clark.

MR. CLARK: Other questions.

MR. STRODTMAN: Additional questions, Mr. Toohey? Thank you, sir.

MR. CLARK: Thank you.

MS. CRAWFORD: Elizabeth Crawford, 1306 Old Highway 63 South. I would like to call your attention to the section that addresses driving and parking around the building that's for some reason in the neighborhood protection standards section. The fire department letter that you got confirmed that you have to be within a 150 feet of every inch of a building. With the size of most commercial buildings and many apartments, you must be able to drive all the way around the building, just to even reach it because if it's a 120 feet, saying you have a 20 foot setback, all of a sudden you can't get to the whole building without being able to drive around it. So when you take that into consideration -- to the same point, if I lived next to a commercial building or apartment, I would rather have the screened parking lot or drive next to my house than force the developer to put the building up next to my house. Including the drive/park restriction in the neighborhood protection standards, forces the developer to put the building next to my house. This doesn't seem like a neighborhood protection to me. Where commercial uses abut residential neighborhoods, it is typically on the edges -- edges of neighborhoods. There will always be a line between commercial and residential. Always. There is one there now; why are we trying to move it? Any questions?

MR. STRODTMAN: Commissioners, any questions for this speaker? I see none. Thank you, Ms. Crawford.

MS. CRAWFORD: Thank you.

MR. STRODTMAN: Thank you. Would anybody else like to come forward and speak? I see none. Commissioners, are we ready for consideration of a motion to close the public input portion of the UDC? Ms. Loe?

MS. LOE: I would move that we close the public hearing portion --

MR. MACMANN: Second.

MS. LOE: -- on the UDC.

MR. STRODTMAN: A motion has been made by Ms. Loe to close the public input portion of the UDC and has been seconded by Mr. MacMann. Commissioners, discussion? Did we require a vote?

MR. ZENNER: There is no -- there is no vote required. If you want to take one, you're more than welcome to.

MR. STRODTMAN: So it's closed and no additional discussion needed? Okay. So the public portion of it has been closed on the records.

PUBLIC HEARING CLOSED

MR. STRODTMAN: Mr. Zenner? I'm sorry?

MR. ZENNER: Five minute recess.

MR. STRODTMAN: We need a five -- what about a ten minute?

MR. ZENNER: That will work.

MR. STRODTMAN: Ten minute recess, it will take us more than five so it's ten minutes -- 7:45.
(Off the record.)

MR. STRODTMAN: Thank you all. I would like to reconvene the Thursday, December 15th, Planning and Zoning Commission Special Public Hearing. So before we get started with the Commissioner's discussion, I just wanted to clarify and make sure everybody understands that -- the process a little bit. So this, by closing the public input portion of it just a few minute ago, that is the last opportunity for the public to speak on this with the P and Z. Now, obviously, depending on what the Planning and Zoning does on January 5th, if it -- well, let's just assume it proceeds to City Council. Then City Council will have a plan to address if they're going to allow public input and how that works, and when, and if it's more than one occasion, et cetera, but those are details that the City Council will work out. So at this time we just ask that we receive no more further public input. Obviously, you are welcome to continue to send things to Mr. Zenner that you might like to send him, but again, it's something that we have closed at this point, and we'll just internally work through some things. So the intent is on January 5th -- we're going to make a few amendments this evening, I believe -- a few amendments that we've already been working on that we'll make this evening. We'll come back on January 5th and then we'll have an opportunity to make a few more amendments, if necessary, at that time as -- the Commissioners will. And then our hope is to have a vote on January 5th as to what we're going to do with the UDC. And then if the vote goes, then that recommendation would be forwarded to City Council, and then you would have the opportunity to work with City Council if some of your concerns were not addressed to the extent that you were hoping for.

MR. ZENNER: And if I may just add --

MR. STRODTMAN: Yes, Mr. Zenner?

MR. ZENNER: If you are going to send me any public comments, please, Christmas cards are welcome at this point.

MR. STRODTMAN: Popcorn tins.

MR. ZENNER: But I don't expect to receive them either. So what we -- what we will be producing for the public in preparation for our January 5th meeting is a comprehensive updated errata sheet that will include all of the recommended revisions that have been made since the November 16th Special Public Hearing. And that will be available for the public to be able to review. The idea behind that is, is that we want to ensure that the public is aware of all of the recommended revisions. That may serve as a guide for what additional comments that you may desire to make to City Council as the document is presented forward. And in the January 5th meeting, I will probably have -- we will also have a terminal staff report that basically summarizes the activities that have occurred since October 20th, as well as it will have some instruction at that point as it relates to the document that will be being presented

to City Council and how it will vary from the document that we have used through these public hearings, just so the public is not surprised when it does see this UDC on Council's agenda for the first time. There will be some minor modifications to it that have been requested by the law department, as we previously spoke what seems to be so many months ago. And I just wanted to remind our public and those that attend our meetings of what those will be. So we will do a little bit of a summary in a staff report, but we will not be going over the entire code again. We believe that the process that has been undertaken here has yielded a significant amount of information; and therefore, we just want to repeat that or at least summarize that back to the public. So with that, Christmas cards are welcome, thank yous, anything that has certificates associated with it for additional travel. But that's okay. I will be more than happy to take any comments -- and those comments that are received, just so the public also is aware, will be included in the staff report that will go to City Council. So if you do have comments, it's not too late to send them to me. We will get them to Council as part of the Council report that will include the Planning Commission's recommendation as it relates to the entire Code. So with that I'll turn the meeting back over to the Commission so you all can work your magic with what you have heard this evening and what other amendments that you may want to make.

MR. STRODTMAN: Thank you, Mr. Zenner. Commissioners, it is our turn now. I believe there's prepared amendments. Ms. Russell, would you like to start us off, please?

MS. RUSSELL: Well, I'd like to first start off with a comment. And I actually thought we were going to be here much later, so I wrote it down just in case I was asleep. So I'm just going to read it. I'd like to make a comment to be in the official minutes regarding a note we received about Commerce Court and changing the designation of the use on the permitted uses tables 29-3.1 from conditional to permitted. The Commission generally believes the uses on these properties will not have a negative impact. The nonconforming uses are in a legal nonconforming status. Should a new business locate there, as long as the intensity of the use doesn't change, then the new business will be fine. The Commission further recognizes that there has been a lot of comment about certain conditional uses having to go through the Planning Commission and Council approvals before being allowed -- the three layers of approval, if you will. The process would only apply to new conditional uses, not those becoming conditional as a result of the new coded option. To address this issue, the Commission believes that it is appropriate under certain circumstances that use-specific standards be created to allow for the currently proposed conditional uses to be either permitted or conditional based on the intensity of the business operation or their location. To this end, I would like to make a recommendation that the staff be directed by City Council following the adoption of the Unified Development Code to prepare a use-specific standards for any use that was previously listed as a permitted use in the current zoning ordinance, such as the maximum number of proposed conditional uses may be allowed as either permitted or conditional use. So I just would like to have the Council direct the staff to start working on a use-permitted standards document for us.

MR. STRODTMAN: Thank you, Ms. Russell.

MS. RUSSELL: And then I have some motions.

MR. STRODTMAN: The floor is all yours.

MS. RUSSELL: Okay. On page 161, section 29-3, use-specific standards, (ee) (1), I would like to add an item (iv). And I would like that to read, Eighty percent of the use activity shall occur within an enclosed building and hazardous materials are a minor component of its business activity.

MS. RUSHING: Second.

MR. STRODTMAN: A motion has been made by Ms. Russell and seconded by Ms. Rushing. Commissioners, questions, discussion? Mr. Zenner?

MR. ZENNER: I would just like to add context to this. The motion is fine as it has been made. The (ee) that Ms. Russell referred to is use-specific condition, (ee), as it is related to light industrial uses that are within the permitted-use statement. This particular amendment we believe -- or I believe will address Mr. Griggs' concern and provides further clarification to those types of businesses that may be considered processing or manufacturing operations with the 80 percent in an enclosed building and a limited amount of hazardous material, so that is just the context in which this amendment is being proposed. It deals with clarifying a light industrial use and how it may be permitted in the I-G zoning district.

MR. STRODTMAN: Commissioners, additional discussion, questions? I see none. Ms. Burns, when you are ready.

MS. BURNS: Yes.

Roll Call Vote (Voting "yes" is to recommend approval.) Voting Yes: Mr. Toohey, Ms. Burns, Ms. Loe, Mr. Harder, Mr. MacMann, Mr. Strodtman, Ms. Rushing, Ms. Russell. Motion carries 8-0.

MS. BURNS: Motion carries eight to zero.

MR. STRODTMAN: Thank you. That will be forwarded. Additional? Ms. Russell?

MS. RUSSELL: Page 34, section 29-1.11, under definitions, I would like to add the following definition of -- to light industry. After the verbiage -- it's actually on page 33, it says "prepared materials". So after "previously prepared materials", I would like to amend it to add "sheet metal shops or". And then it will follow with the servicing or sale. And then additionally in that same definition, after "which activities are conducted", I would like to amend that to add "at a minimum of 80 percent or".

MR. MACMANN: Second.

MR. STRODTMAN: Ms. Russell has made a motion and seconded by Mr. MacMann. Commissioners, discussion? Ms. Loe?

MS. LOE: Ms. Russell, just a clarification. Are we deleting the word "wholly" within or are we changing it from --

MS. RUSSELL: Are leaving "wholly".

MS. LOE: Can you read what the sentence would say?

MS. RUSSELL: Which activities are conducted wholly or at a minimum of 80 percent.

MR. STRODTMAN: Commissioners, additional discussion on the motion? I see none. When you are ready, Ms. Secretary.

MS. BURNS: Yes.

Roll Call Vote (Voting "yes" is to recommend approval.) Voting Yes: Mr. Toohey, Ms. Burns, Ms. Loe, Mr. Harder, Mr. MacMann, Mr. Strodtman, Ms. Rushing, Ms. Russell. Motion carries 8-0.

MS. BURNS: Motion carries eight to zero.

MR. STRODTMAN: Thank you. Additional, Ms. Russell?

MS. RUSSELL: I have one last one.

MR. STRODTMAN: All yours.

MS. RUSSELL: Then I will be done maybe. Page 29, section 29-1.11, definitions, under heavy industry. Eliminate from the last sentence "sheet metal shops".

MR. MACMANN: Second.

MR. STRODTMAN: A motion has been made to remove "sheet metal shops" by Ms. Russell and seconded by Mr. MacMann. Commissioners, discussion on that motion? I see none. Ms. Burns, when you are ready.

MS. BURNS: Yes.

Roll Call Vote (Voting "yes" is to recommend approval.) Voting Yes: Mr. Toohey, Ms. Burns, Ms. Loe, Mr. Harder, Mr. MacMann, Mr. Strodtman, Ms. Rushing, Ms. Russell. Motion carries 8-0.

MS. BURNS: Motion carries eight to zero.

MR. STRODTMAN: Mr. MacMann?

MR. MACMANN: I have -- are you done, Ms. Russell.

MS. RUSSELL: I am finished.

MR. MACMANN: All right. I would like to move to amend the M-DT regulating map as follows: The property in reference to the block that bordered by Broadway, Providence, Walnut, and I believe, Mr. Farnen, that's Fourth on the other side.

MR. FARNEN: That is correct.

MR. MACMANN: That's correct. That property is listed in the M-DT regulating map as bisected by an alley running east-west that separates the properties of Mr. Hagan and Mr. Waters and a third owner, I didn't know their name. I would like to move to delete that alley from the regulating map as it is not legal and correct.

MS. RUSSELL: Second.

MR. STRODTMAN: Thank you. I have -- we have a motion that has been made and -- by Mr. MacMann to eliminate the alley that has been already in the past given up and is private property and was seconded by Ms. Russell. Discussion by the Commissioners? I see none. When Ms. Burns is ready.

Roll Call Vote (Voting "yes" is to recommend approval.) Voting Yes: Mr. Toohey, Ms. Burns, Ms. Loe, Mr. Harder, Mr. MacMann, Mr. Strodtman, Ms. Rushing, Ms. Russell. Motion carries 8-0.

MS. BURNS: Motion carries eight to zero.

MR. STRODTMAN: Thank you. Mr. MacMann?

MR. MACMANN: I have two more amendments to address. Some concerns as expressed by staff in regards to annexation of trees and agreements with the County, the University and other entities. The first amendment -- and I think that we have this wording right. In reference to 295 [sic].5 (c) (1) (x) a, page 263 as follows: Revise the text reading "five years" shown in line 2 to "six years" and delete in whole the last sentence of the section that begins with "Annexed property".

MR. STRODTMAN: Would you be able to repeat that, Mr. MacMann, because it took me a little bit of time to --

MR. MACMANN: Oh, I'm sorry.

MR. STRODTMAN: No, you're fine.

MR. MACMANN: The first part of this motion would be revise text reading "five years" shown in line 2 to "six years" and delete in whole the last sentence of the section that begins with "Annexed property".

MS. RUSHING: Second.

MS. LOE: Did we already do this?

MS. BURNS: I thought we did.

MS. RUSSELL: That's what I thought.

MS. LOE: Yes.

MS. BURNS: I thought we have done this.

MS. LOE: We've already done this.

MR. STRODTMAN: Yeah.

MS. RUSSELL: Just discussed it?

MS. RUSHING: That's what I thought.

MR. ZENNER: Discussed only.

MR. STRODTMAN: So a motion had been made by Mr. MacMann and seconded by Ms. Rushing. Correct, Ms. Rushing?

MS. RUSHING: Correct.

MR. STRODTMAN: Ms. Rushing seconded that motion. Discussion, Commissioners? Ms. Loe, you had a question about you had thought we had done it before?

MS. LOE: Ms. Burns and I have not had our chance to compare our notes against the errata sheet, so --

MR. STRODTMAN: Mr. MacMann?

MR. MACMANN: This is in reference to the letter sent to us by Public Works, and Mr. Glascock, specifically, in addressing the annexation issues and the look backs.

MR. TOOHEY: We didn't --

MS. RUSHING: Yeah.

MR. MACMANN: We have discussed this, but to my knowledge we have not had an amendment on this. And I'm certainly open to being corrected.

MR. TOOHEY: This was discussed at our work session after our public session on Monday night, so we --

MR. MACMANN: That was my understanding.

MR. TOOHEY: -- I don't see how we could have made a motion.

MS. LOE: All right.

MS. RUSHING: But I have it -- I wouldn't have had my notes out for the work session, and I have it marked in my notes. But it doesn't matter if we do it a second time.

MS. LOE: No.

MR. MACMANN: Well, we will make Mr. Glascock twice as happy.

MR. STRODTMAN: Commissioners, additional discussion on this motion that has been made and seconded? I see none. Ms. Secretary, when you are ready.

MS. BURNS: Just a quick question. Who seconded this?

MR. STRODTMAN: Ms. Rushing.

MS. BURNS: Thank you.

Roll Call Vote (Voting "yes" is to recommend approval.) Voting Yes: Mr. Toohey, Ms. Burns, Ms. Loe, Mr. Harder, Mr. MacMann, Mr. Strodtman, Ms. Rushing, Ms. Russell. Motion carries 8-0.

MS. BURNS: Motion carries eight to zero.

MR. STRODTMAN: Mr. MacMann?

MR. MACMANN: I have one more motion on the same topic. In regards to section 29-5 [sic].5(c) (1) (x) b, page 263 as follows: Add a new item, (ii), that reads as follows and renumber the sections that follow accordingly. Wording is as follows: "In addition to the reforestation requirements indicated in item (i) above, any annexed tract containing a regulated stream for which a stream buffer would have been required and no longer exists shall be reforested with native plant species at the rate of reforestation as shown below. The reforested stream buffer shall not be credited towards meeting the 25 percent climax forest required by item (i) above. Ms. Burns, did you --

MS. BURNS: No. But this is per John Glascock. Correct?

MR. MACMANN: That's correct.

MS. BURNS: Thank you.

MR. STRODTMAN: Commissioners, do you want that motion read again or is everyone clear?

MR. TOOHEY: No. Can you go ahead and repeat that again?

MR. MACMANN: Certainly.

MR. STRODTMAN: Mr. MacMann, please?

MR. MACMANN: In regards to 29-5.1 -- 5.5, excuse me, (c) (1) (x) b on page 263: Add a new item, (ii), which will read as follows and renumber the sections that follow accordingly: "In addition to the reforestation requirements indicated in item (i) above, any annexed tract containing a regulated stream for which a stream buffer -- for which a stream buffer would have been required and no longer exists shall be reforested with native plant species at the rate reforested as shown below. The reforested stream buffer shall not be credited towards meeting the 25 percent climax forest required by item (i) above.

MS. RUSHING: Could you give the numbers again? I'm having --

MS. LOE: I think we need a point of clarification because you're telling us it is 29-5.5 on page 253.

MS. RUSHING: 4.5

MS. RUSSELL: 4.5

MR. MACMANN: If it is, my -- I've written it done incorrectly.

MR. STRODTMAN: 4.5

MS. LOE: So it should be 4 --

MR. ZENNER: It should be.

MR. MACMANN: I apologize.

MS. LOE: Can you read us the number, Mr. Zenner?

MR. ZENNER: It would be 29-4.5.

MR. MACMANN: And the rest is correct?

MR. ZENNER: (c) (1) (x) b --

MR. MACMANN: (b)

MR. ZENNER: And it is on page 263. And then just for the purposes of clarification for the notes that you and Ms. Burns are taking, the proceeding section would have also been 29-4.5 (c) (1) (x) a.

MS. LOE: That was correct.

MR. ZENNER: Okay.

MR. MACMANN: Thank you, Ms. Loe.

MS. RUSHING: And (c) (1) (x) b, and what is the subsection there?

MR. ZENNER: It would be a new subsection 2.

MS. RUSHING: Oh.

MR. ZENNER: So you are adding -- the amendment is to add --

MS. RUSHING: Okay.

MR. ZENNER: -- a new subsection section 2 and renumber all subsections accordingly.

MS. RUSHING: Okay.

MR. STRODTMAN: Commissioners, there's been a motion made. Would anybody -- is there a second?

MS. BURNS: I'll second.

MR. STRODTMAN: Ms. Burns. Thank you. A motion has been made by Mr. MacMann and seconded by Ms. Burns. Commissioners, discussion on this motion? I see none. Ms. Burns, when you are ready.

MS. BURNS: Yes.

Roll Call Vote (Voting "yes" is to recommend approval.) Voting Yes: Mr. Toohey, Ms. Burns, Ms. Loe, Mr. Harder, Mr. MacMann, Mr. Strodtman, Ms. Rushing, Ms. Russell. Motion carries 8-0.

MS. BURNS: Motion carries eight to zero.

MR. STRODTMAN: Ms. Russell?

MS. RUSSELL: Actually, to clean up some of the alleys that were mentioned, on -- I would like to amend the regulating plan to remove the alley between Sixth and Seventh Street north of Elm.

MR. STRODTMAN: Sixth and Seventh north of Elm?

MS. RUSSELL: Correct. I believe that was on one of the maps that Mr. Farnen showed us.

MR. MACMANN: I -- I'll second that. If I may, we received quite a bit of input that that alley has vacated -- was vacated some time ago and is incorrectly on the plan.

MS. LOE: It doesn't appear to be shown on the plan.

MR. MACMANN: I -- I know there are other errors on this particular map, and I understand that.

MR. STRODTMAN: Okay. So a motion was made, and who -- I heard a second?

MR. MACMANN: I seconded.

MR. STRODTMAN: Seconded. Okay. Commissioners, discussion?

MR. TOOHEY: I've got a question about that.

MR. STRODTMAN: Mr. Toohey?

MR. TOOHEY: So when you look on the County's web page and their parcel data, it's showing what potentially might be an alley as a dotted line. Does staff know what that dotted line means? It shows basically six lots on that block with what looks like might have been an alley at one time or -- does that make -- do you understand what I am saying?

MR. ZENNER: Dash lines generally represent former property lines that have not been eliminated through replatting of a new plat. The plats have been consolidated. I'm trying to place the comment that was made this evening as it relates to this alley between Sixth and Seventh, north of Elm in that block. With the comment that was made this evening, unless I spaced out as Mr. Farnen talked, was about the alley that is north between Providence and Fourth on --

MR. MACMANN: That is correct, Manager Zenner. We received input from certain members of the public regarding this specific alley that Ms. Russell brought up at least twice from different sources.

MR. ZENNER: Yeah. I believe --

MR. TOOHEY: It was in --

MR. MACMANN: But that alley does not exist, but to have it on the plan, brings it into life.

MR. TOOHEY: It was in some of the information that the CID provided.

MS. RUSHING: On the aerial map, it is not showing an alley there.

MR. ZENNER: Is this the property of where the State Museum will be being built?

MR. TOOHEY: I believe it is.

MR. STRODTMAN: Ms. Loe?

MS. LOE: I'm in the Assessor's website, and it does show the dotted lines as --

MR. STRODTMAN: A former --

MS. LOE: -- as been identified. Yeah. So it could be that it has not beneficially vacated yet.

MR. ZENNER: If that is the State Museum site, which I -- it very well may be -- we can verify that for you, and if it is not an alley, we will remove it from the map. If it is an alley, it probably does need to be identified. The State Museum site actually does have a partially vacated on it, and --

MS. RUSHING: Yeah. See --

MR. ZENNER: -- we've eliminated -- we've eliminated other -- it never had active alley use on one-half of it to begin with. So there's utilities over that area that may be in gray if it's the site that I'm thinking it is.

MR. STRODTMAN: Ms. Russell?

MS. RUSSELL: Could I change the motion to amend the regulating plan to ensure the alley is removed between Sixth and Seventh Street north of Elm?

MR. STRODTMAN: Yes, you can. Mr. MacMann, are you seconding it?

MR. MACMANN: I think -- I think so. That makes it conditional then; is that correct?

MS. RUSSELL: It makes them fix it.

MR. MACMANN: Okay. That's where we are going. Okay.

MR. ZENNER: We will take care of the problem.

MR. MACMANN: And I think someone said fix it.

MR. STRODTMAN: Mr. MacMann, you're good with the second still?

MR. MACMANN: I am. I just wanted to make sure what I was seconding.

MR. STRODTMAN: Commissioners, discussion? I see none. Ms. Burns, when you are ready.

MS. BURNS: Yes.

Roll Call Vote (Voting "yes" is to recommend approval.) Voting Yes: Mr. Toohey, Ms. Burns, Ms. Loe, Mr. Harder, Mr. MacMann, Mr. Strodtman, Ms. Rushing, Ms. Russell. Motion carries 8-0.

MS. BURNS: Motion carries eight to zero.

MR. TOOHEY: While we are dealing --

MR. STRODTMAN: Mr. Toohey?

MR. TOOHEY: -- with the regulating plan, the CID had also sent us sent us information with regards to a property at 24 -- 24 South Ninth Street where there appears to be an alley on the regulating plan. But again, if you look at the data on the Assessor's web page -- the mapping data, that property at

24 South Ninth Street abuts up to the property behind it, which would mean that alley doesn't technically go through.

MR. STRODTMAN: Mr. Zenner?

MR. MACMANN: Which --

MR. STRODTMAN: Mr. MacMann?

MR. MACMANN: Which block? You're on South Ninth in the first block south of Broadway?

MR. TOOHEY: It's between Ninth and Tenth just north of Cherry.

MR. MACMANN: And you're -- those alleys go as the map you gave us earlier?

MR. TOOHEY: Excuse me?

MR. MACMANN: In regards to -- referencing the map that you passed out earlier, those alleys do both go all the way through?

MR. TOOHEY: Not according to the way that parcel is divided.

MS. RUSSELL: That parcel does go to the back. We need to --

MR. MACMANN: The parcels go all the way across the --

MS. RUSHING: You're talking about Alley A?

MS. RUSSELL: In the middle of the alley.

MR. ZENNER: The north-south --

MS. RUSHING: I see.

MR. ZENNER: Is it the north-south segment?

MR. TEDDY: It has the appearance of an alley --

MR. TOOHEY: Yes.

MR. TEDDY: -- by occupation because there is a continuous alleyway, but we believe there is a property line --

MS. LOE: That goes across it.

MR. TEDDY: The alley encroaches --

MS. RUSSELL: Right.

MR. TEDDY: Is that fair to say it?

MS. RUSSELL: Right. The alley is there, but the lot line extends into it.

MR. STRODTMAN: Mr. MacMann?

MR. MACMANN: This is -- this is my problem. Yeah. I'm very familiar with the -- the physical space and the layout. We have fire exits on that. And that's what kind of confuses me. Are we problematic in any way, shape or form there? Like my fire exit is through your property? I mean, some of the buildings -- the egress for some of those apartments is through the back.

MR. TEDDY: Talking about north of -- north or south of where that parcels appears to be.

MS. RUSHING: Here?

MR. MACMANN: It would be south of Alley A.

MR. TEDDY: Yeah. South of Alley A, but between Alley A and then where that parcel line is, is that where the fire exits are that you were talking about?

MR. MACMANN: Well, there are a variety of exits there for different leases throughout that area, and this is -- this is what --

MS. LOE: It looks like it is Lakota that goes --

MS. RUSSELL: I think it's Lakota. The lot for Lakota goes all the way back.

MS. LOE: So it's only that building -- parcel. The rest of them stop at the alley.

MR. MACMANN: I could resolve that on my own. I'm just -- I'm just wondering -- Mr. Toohey, what was your issue there?

MR. TOOHEY: My issue is if it's not an alley, how can it be on the regulating plan?

MR. TEDDY: There is a physical alley there, so I think that's -- that's why it was so designated. What I would propose is that we try to resolve whether or not it's a proper alley. I mean, it might be an alley by occupation, meaning it has been used as such.

MR. STRODTMAN: But not a legal alley.

MR. TEDDY: Right. But to common law --

MR. TOOHEY: That's my issue. If it's not a legal alley, why would it be in the regulating plan?

MR. MACMANN: Well, then we have a problem if it's not a legal alley.

MR. TEDDY: We can take off that portion of it. We can take off that portion of it that's within private property. I think we have to do that research, unless you have something that you know of.

MR. ZENNER: No. No.

MR. STRODTMAN: Ms. Loe?

MS. LOE: If the other buildings have -- I mean, if it's been identified as a public way and there are the buildings that back up to it that do have fire exits to it as a public way, even if it dead ends in the middle, I think we should leave it as a public way at this time and let the City resolve that.

MR. STRODTMAN: Mr. MacMann?

MR. MACMANN: I'm fairly familiar with this, as Mr. Ott could probably testify. 10, the business -- the ancillary bar to Harpo's that's their -- their access and egress is off that alley. The fire exit for Lakota -- a fire exit for LaKota is off of that alley. I do believe -- I don't know if Mr. Ott is still here --

MS. LOE: Mr. MacMann, I don't think we have the wherewithal to actually answer the --

MR. MACMANN: That's the point I'm saying. Before we move anything off, there certainly appears to be some problematic issues with what is and isn't fire exits and business entrances and such. I think maybe we should have this researched more before we take any action on the same.

MR. STRODTMAN: Mr. Zenner, would you be able to research it and provide us information before January 5th?

MR. ZENNER: Concurrent with the January 5th meeting --

MR. STRODTMAN: Right.

MR. ZENNER: -- we'll have -- we'll have --

MR. STRODTMAN: As part of the package?

MR. ZENNER: We'll have it as part of the package.

MR. STRODTMAN: Thank you. Additional? Mr. Zenner?

MR. ZENNER: I would suggest, however, as a similar motion to Ms. Russell's on the previous alley segment, please make a motion so the minutes do reflect that you have asked staff to research the removal of this particular alley segment, which would have been identified as item number three in the CID's letter of December 15th under M-DT regulating plan amendments.

MR. STRODTMAN: Mr. Toohey, would you like to form a motion?

MR. TOOHEY: Yes. That staff would go in and research this particular alley to verify whether or not it is a legal alley or not.

MS. LOE: Second.

MR. STRODTMAN: Mr. Toohey made a motion and seconded by Ms. Loe. Commissioners, discussion on this motion? I see none. Do we need to make this a vote?

MS. BURNS: I guess so.

MR. STRODTMAN: Make a vote, please, Ms. Burns.

Roll Call Vote (Voting "yes" is to recommend approval.) Voting Yes: Mr. Toohey, Ms. Burns, Ms. Loe, Mr. Harder, Mr. MacMann, Mr. Strodtman, Ms. Rushing, Ms. Russell. Motion carries 8-0.

MS. BURNS: Motion carries eight to zero.

MR. STRODTMAN: Thank you, Ms. Burns.

MR. TOOHEY: While we are on the regulating plan, I guess I'll go ahead and make another one. I make a motion that we go ahead and extend the core height area east to Hitt Street.

MS. LOE: I'll second.

MR. STRODTMAN: Thank you. A motion has been made by Mr. Toohey to extend the -- the building height -- the core height max ten stories east to Hitt Street and seconded by Ms. Loe. Commissioners, questions? Ms. Loe?

MS. LOE: Mr. Zenner, I have a follow-up question on this because that core height limit actually appears to bisect several lots. And if we are going to make a corrective action on this one, I think we need to look at all of them. So can you explain or clarify what happens when that height limit bisects a lot?

MR. ZENNER: The building would step down accordingly. I would like to ask, if I may as a follow up to the motion, are you wanting the entire core height boundary moved from Broadway -- are you wanting the entire eastern boundary line running both north of Broadway and South of Broadway to be extended east to Hitt Street, so there is one consistent north-south line that follows the right-of-way -- the western right-of-way of Hitt or are you only wanting this to apply south of Broadway?

MR. STRODTMAN: Mr. Toohey, any clarification on your motion?

MR. TOOHEY: I guess I would say both north and south, so that line remains straight on the east side of town instead of having it jog at Broadway.

MR. STRODTMAN: One concern, Mr. Toohey, might be that on the north side of Broadway, you are starting to kind of maybe split -- split lots similar to the concern that was brought to our attention earlier.

MR. ZENNER: And I think one solution to that is, is that if you want the entire lot not to be split, you may want to include the entire lot. I think what we have here is an issue -- you've got lots and you've got buildings. To the north I would say that there are possibly lots -- lot lines that could be used to extend north, if you so chose to do that. And then if we extend it south -- so you have a slightly jagged line, but based on the way that the -- the scale of the mapping right now, that probably may not be as dramatic as it may look. But then if you did take it fully south -- south of Broadway to the western line of Hitt, that creates one continuous southerly segment of the line that is not impacted by individual lots. And to that point, I think that that would probably be a reasonable alternative if you want to move -- if you would like to move that northern portion of it over as well.

MR. STRODTMAN: Mr. MacMann?

MR. MACMANN: Yes. We've -- thanks to Mr. Colbert, we've heard from one of the property owners who has the problem of having his building bisected. And while another major property owner along this line is the City of Columbia, there are at least one, two, three, four -- there may be five -- I can't remember how these lots break -- other property owners that we have not heard from, nor have we heard from the individuals who own properties on the east side of Hitt to see how they would feel with rather than having a potential six-story building across the street from them on a very narrow street, a ten-story building across the street from them on a very narrow street. And while I appreciate Mr. Colbert's problems, I would -- might suggest if -- I would suggest that the motion as offered is problematic because we haven't heard from these property owners. And a specific remedy may be to help out a specific property owner, even though it does create a jagged line because they have a -- I've been in the building and I've leased space in the building. It is cut in half as the line is drawn right now.

MR. STRODTMAN: Further discussion, Commissioners? A motion has been made and is on the table by Mr. Toohey and seconded by Ms. Loe. Any additional discussion needed?

MR. ZENNER: As amended. Correct?

MR. STRODTMAN: As amended to the north.

MR. ZENNER: You want to bring it to the west line of Hitt extended the full length of the lines. The boundary moves east.

MR. STRODTMAN: Commissioners? No further discussion. Then we will have a vote on this motion.

Roll Call Vote (Voting "yes" is to recommend approval.) Voting Yes: Mr. Toohey, Ms. Burns, Mr. Harder, Mr. Strodtman, Ms. Russell. Voting No: Ms. Loe, Mr. MacMann, Ms. Rushing. Motion carries 5-3.

MS. BURNS: Five votes to three, motion carries.

MR. ZENNER: And just for purposes of clarification for the minutes and so staff knows what they are doing, are we or are we not, because it was not included as part of the motion, following the lot lines to the north or are we just extending the line straight up from the west boundary line of Hitt?

MR. TOOHEY: So would you like another motion to clarify that?

MR. ZENNER: I just -- it's entirely up to you. I'm interpreting that the motion that you have made and you have just approved is extending it straight up along the west line of Hitt, which will cut buildings in half north of Broadway when you extend that boundary lot. So you are not -- you're potentially going to create additional issues, which is what I believe what Mr. Strodtman was trying to point out, north of -- north of Broadway. We have other existing infrastructure -- structures that are there that are going to be split by this ten-story core height.

MR. STRODTMAN: Ms. Loe?

MS. LOE: It appears there is lot lines very close to that west boundary on Hitt. Could it not follow the property line versus --

MR. ZENNER: That's what I'm wanting to clarify. Is that what the intent of the motion was to follow the property lines north of Broadway and follow the west boundary line of Hitt south of Broadway?

MR. STRODTMAN: Mr. Toohey?

MR. TOOHEY: Can you repeat that?

MR. ZENNER: Was it the intent in the motion to follow property lines north of Broadway and follow the right-of-way line -- the west right-of-way line of Hitt Street south of Broadway?

MR. TOOHEY: Yes, that was the intent of the motion.

MR. ZENNER: Thank you. That's all I needed to know.

MR. STRODTMAN: Commissioners, everyone is clear on that clarification and the vote is still the vote? Okay. Additional discussion, Commissioners? Ms. Burns?

MS. BURNS: Yes. I wanted to revisit the amendment we made to section 29-4.2 (c) to revise the M-DT regulating plan such that its boundary line is moved to the center line of St. James as it travels from Park to Ash and retract the small tails that remain back into the intersection of St. James and Ash and St. James and Park. And I think, Mr. MacMann, you made this at a previous meeting and we didn't have a chance -- in my mind, I didn't -- I didn't -- it wasn't fully resolved for me. And so you had spoken with people from the neighborhood. We've never had anyone from the public come and ask for this, and we've had two tonight speak in favor of putting it back into the M-DT. So could you elaborate on why you made this motion?

MR. MACMANN: Certainly. The -- and staff can help me here just a little bit. This was not in any of the versions of the Columbia Imagined. As a matter of fact, it wasn't even the first version of the UDO. This movement was a staff action as it moved from -- and it was designed, I believe, to incorporate the Ameren property. And once the Ameren property was incorporated, then the other M-1 across the street,

St. James was incorporated. When that was noticed by the property owners, and I'm sorry they're not here. I can't speak to why they spoke to me and didn't, you know -- they were concerned with having M- -- they were not aware that this was the case, and they were concerned with having that -- the potential for M-DT development right next to -- right in their back yards, as they put it. It had been my hope that in making that motion, that the issues associated with the property north of Park in -- as I refer to it as the triangle, which we're going to do after -- to take up the M-- after the UDO how that is going to be so. And they are -- when I say "the triangle", I refer to the area Park, Rogers, and Tenth. That area is currently not in the M-DT, and we're going to have public hearings -- a lot of things are going to develop. Mr. Colbert and Mr. Ott had spoken with us in the past about they would like to extend the M-DT up there. Mr. -- (inaudible) -- also has property up there. It had been my hope that when we have discussion about that triangle, we have a similar public discussion about St. James and St. Joseph. And that is not only because of that area right there, it's also because this body have taken a variety of steps to protect the Hubbell Street and we're essentially surrounding -- or potentially surrounding it without a public hearing process and without a public process, which will allow property owners, which will allow home owners to come in and say what they think rather than administratively doing that boundary. Because, like I said, in Columbia Imagined, it was not there, and in the earliest version of the UDO, it was not present. But it was -- when it was moved, someone brought it to my attention, hey, this has been moved. And that is when I looked and noticed it was looked [sic] and the property owners came to me and said I don't know about this.

MS. BURNS: And I appreciate that. Thank you. I guess since the property owners didn't come to us, that's a concern for me. And the fact that this is part of the downtown CID and includes tenants such as DogMaster Distillery, Yoga Sol, and Talking Horse Theatre, and to be consistent, that the location should be included within the M-DT. So I guess I am making a motion to remove this amendment and place this area back into the M-DT.

MR. TOOHEY: I'll second that.

MR. STRODTMAN: A motion has been made to extend the M-DT boundaries by Ms. Burns and seconded by Mr. Toohey. Commissioners, discussion?

MS. RUSHING: That's just to the east. Right?

MS. BURNS: It's -- from Park, it's to --

MS. RUSHING: Across the street? Just across the street?

MS. BURNS: Right.

MS. RUSHING: Okay.

MS. LOE: So to clarify, Ms. Burns, that would be restoring --

MS. BURNS: The original proposal.

MS. LOE: What I have on the old map?

MS. BURNS: Well, what our motion was to revise the M-DT regulating plan such that its boundary line is moved back to the center line of St. James as it travels from Park to Ash.

MS. RUSHING: That's your motion?

MS. BURNS: No. That's the motion that --

MR. MACMANN: That was my motion.

MS. RUSHING: Oh, okay.

MR. MACMANN: That was my amendment that was to --

MS. BURNS: Asking us to rescind.

MS. RUSHING: I was going to say --

MS. BURNS: No.

MS. RUSHING: Okay.

MS. LOE: Got it. So it will go back to --

MS. RUSHING: We're putting it back to the other side.

MS. BURNS: Yes.

MS. RUSHING: Okay.

MS. LOE: Which on my map is -- if no one else has theirs, it's the backside of the properties on the east side of St. James.

MR. STRODTMAN: And the entire block would be?

MS. RUSHING: Well --

MS. BURNS: From Park to --

MS. RUSHING: It's done -- it's done on frontage, I believe. So the ones that front along St. James.

MS. BURNS: Yes. The businesses that I mentioned.

MS. RUSHING: Yeah. So you don't have to carry it into the lot, but -- second.

MS. BURNS: I think Mr. Toohey had seconded.

MS. RUSHING: Okay. So never mind, but you have a vote.

MR. STRODTMAN: Any additional discussion, Commissioners? I see none. Ms. Burns, when you are ready.

MS. BURNS: Yes.

Roll Call Vote (Voting "yes" is to recommend approval.) Voting Yes: Mr. Toohey, Ms. Burns, Ms. Loe, Mr. Harder, Mr. Strodtman, Ms. Rushing, Ms. Russell. Voting No: Mr. MacMann. Motion carries 7-1.

MS. BURNS: Motion carries seven to one.

MR. STRODTMAN: Thank you, Ms. Burns. Ms. Loe?

MS. LOE: On page 188, item 29-4.2 (d) (8) Balconies, I just wanted to clarify that the building code is not setting the maximum of balconies since we have now adopted a more restrictive depth in the Zoning Code. So in item (iii) (C), delete "maximum projection and minimum height above public sidewalk shall be governed by" and replace it with "the proposed balcony meets all the applicable requirements of".

So it would read "the proposed balcony meets all the applicable requirements of the building code of Columbia, Missouri adopted in chapter 6 of the City Code.

MS. RUSHING: But when we discussed this, that would increase the amount it could encroach to four --

MS. LOE: The discussion is when more than one provision applies, the most restrictive provision shall govern.

MS. RUSHING: And the two feet that we have in here would be the most restrictive.

MS. LOE: Correct.

MS. RUSHING: So if you have only the building code apply, then it would be four feet.

MS. LOE: This is not saying only the building code.

MS. RUSHING: Yeah, it is. If you take out -- you would say the applicable provisions of the building code shall apply --

MS. LOE: It does not say --

MS. RUSHING: I mean --

MS. LOE: The following item says the proposed balcony meets all the applicable design standards contained in this code and other ordinances passed by the Council.

MS. RUSHING: I thought we had amended (C) to say -- and this could be another place where we just talked about it -- the minimum height above the public sidewalk shall be governed by the building code of Columbia, Missouri. So then it -- if it is amended in that respect, then you are making it clear -- or you're trying to make it clearer that this governs balconies, and not the building code.

MS. LOE: The building code governs more than height above sidewalks, so I didn't -- we did not pass that, and I don't think we should restrict it just to that in this ordinance. By stating that only the applicable requirements contained in the Code, that it meets those, it is simply pointing anyone who is doing balconies to the fact that additional provisions are contained in the building code, and they need to double-check those. I'm merely trying to eliminate the language that says the maximum overhang is identified in the building code because this code is also identifying a more restrictive overhang. I'm open to other language, but I don't think it is fair to restrict it only to the height above sidewalks.

MS. RUSHING: Again, I just indicated in my notes, I thought that we had made that change based on staff's recommendation.

MS. LOE: We discussed it on Monday, but we have not --

MS. RUSHING: Okey-doke.

MR. STRODTMAN: Mr. Zenner?

MR. ZENNER: I guess in the context of what this provision is trying to achieve, we're only -- we're not limiting the building code for any other application as it relates to any other type of development. We're basically limiting the building code's application as it relates to balconies, specifically. So if you take out maximum projection, which we do have a more restrictive standard, and you're not saying default to the building code for your maximum projection, you're referring to the building code for the max-- the

minimum height, which is also addressed elsewhere within the City Code as part of chapter 24. So, I mean, the building code will be trumped by any other Code standard that we have, which is the reason for item (d) that has to meet any other City code. And, you know, the building code is part of the City Code. It is adopted as part of the City Code, and I would suggest to you if you don't want to have any conflict, just delete (c).

MS. LOE: I find the language confusing saying this Code is setting standards, and the minimum and maximum are established in another code.

MR. ZENNER: Well, what I would tell you then is if that is the concern and the Commission has a tendency to -- if they agree, if you eliminate (C), (D) basically says that the proposed balcony meets all applicable design standards contained in this Code, which would mean that it can't project more than two feet --

MS. LOE: Uh-huh.

MR. ZENNER: And it meets all other ordinances passed by City -- by the Council --

MS. LOE: Which includes the building code.

MR. ZENNER: -- which includes the building code, you're covered.

MS. LOE: But can we eliminate item (C)?

MR. ZENNER: I would suggest go right ahead and do it.

MS. LOE: I like that one. So I will withdraw the motion, which was not seconded, so I'm not sure I need to. And I will make a new motion to delete item 29-4.2 (d) (8) (iii) (C).

MS. RUSSELL: Second.

MR. STRODTMAN: Ms. Russell, second. A motion has been made by Ms. Loe -- and to eliminate section (C), and seconded by Ms. Russell. Discussion, Commissioners? I see none. Ms. Burns, when you are ready.

Roll Call Vote (Voting "yes" is to recommend approval.) Voting Yes: Mr. Toohey, Ms. Burns, Ms. Loe, Mr. Harder, Mr. MacMann, Mr. Strodtman, Ms. Rushing, Ms. Russell. Motion carries 8-0.

MS. BURNS: Motion carries eight to zero.

MR. STRODTMAN: Thank you, Ms. Burns. Ms. Loe?

MS. LOE: The previous page, 187, covers parking lot setback lines. And this has been brought up tonight, and I would like to have a discussion on it. So we received a letter from CID proposing the setback line be revised from 24 feet to four to six feet.

MR. TOOHEY: Are you talking section 9, part (B)?

MS. LOE: 29-4.2 (d) (ix) -- the whole of (ix). So -- but (B) specifically -- yeah -- more particular.

MR. TOOHEY: I would support reducing that to -- I think the term the staff used was no less than six feet.

MS. LOE: Does staff have any comment on this?

MR. ZENNER: I mean, I think we have to -- we have to be careful as to what we unintentionally create as it relates to a building that may be torn down with not an intention of rebuilding a building, but allowing a parking lot -- a surface parking lot to be installed which is no longer a conditional use within the downtown district. So the M-DT will allow you to build a parking lot by right, provided that you meet the M-DT standards, which means right now you are required to basically set the parking lot back 24 feet from a right-of-way, especially if it is a freestanding use, and you're required at that point to build a street wall, which you have amended to allow to be a soft street wall. But that soft street wall would be at 24 feet. So if you look at it in that instance, it may seem somewhat counterintuitive to the fact that we are trying to create a streetscape or a street wall that is equivalent maybe to your adjacent built structures that are -- and would probably be built directly to the property line. So there may not be a four foot; there may not be any space between the building façade wall and the sidewalk. A 24-foot setback is going to look maybe odd in that situation; whereas, moving it forward to a minimum of maybe a six-foot space, which I believe is what Mr. Toohey is suggesting, and requiring that that be either soft landscaped or hard landscaped as defined within the street wall provisions may not be objectionable in some instances. However, it could be in others. Ultimately what Farrell Madden wanted to do is they wanted to create a walkable environment. Parking lots and then parking lots that may have to have driveway access to get into them will not promote a walkable downtown when they are directly or in close proximity possibly to the right-of-way. That is my observation. I mean, the decision is yours. I think when an undeveloped parcel -- when there is no other development other than a parking lot being permitted on -- or being proposed on that lot, I think we -- if you move it, you incentivize that parking lot to remain there in perpetuity. Now granted, we have land value probably downtown that it is going to be very rare that you're going to see somebody leave a permanent parking lot there. We do have, in some instances, a pronounced parking problem where it may be more economical to tear a building down and build a parking lot. And that is a -- that may be contrary to the parking utility's objective of trying to not have private competitive parking that surface parking that's market rate. You build a parking lot to support a land use, i.e. a building. You don't build a parking lot to compete competitively -- or you should not, I believe build a parking lot to compete competitively with the City unless you have a building that goes along with it because you can always lease a parking lot if you have a building to somebody other than your tenants. I mean, that's hence why the reason that the Code changed by allowing a parking lot then to be a permissible use, but a permissible use with a building behind the parking setback line. It wasn't to allow surface parking lots all of a sudden to be reintroduced into downtown without any additional design requirements or disincentive. So you remove the 24-foot parking setback line, you remove a disincentive for people to tear buildings down and don't build a building back and lease that space, which would definitely not be, I think going in the appropriate direction.

MR. TEDDY: If I may just add that what Mr. Zenner told you, we did add a couple of exceptions in the 24-foot parking setback rule. One, is for the presence of a utility easement, which is rare downtown, but there are at least a couple of examples where a utility easement is -- or the required

building line would be. In that case the parking is going to be allowed over an easement, but a building is not, so the Code recognizes now that hardship situation would allow parking within the 24 foot. And then another exception would be if screened -- solid screening that was already mentioned, and be understood there would be no more than 60 feet total width along the street because the idea is you don't want to gut your streetscape, and there would also be no driveways directly accessing that from the street. So it would be rear accessed or maybe side accessed to parking.

MR. STRODTMAN: Mr. Zenner? Mr. Teddy? Any additional? Ms. Loe?

MS. LOE: Mr. Teddy, just to clarify, I'm looking at item (B), and it says a parking area of not greater than 60 feet in width may be permitted closer if screened. So it's only parking lots less than 60 feet in width if screened.

MR. TEDDY: Yeah. The idea again is so blocks are not dominated by parking lots. That's I think why the conditional use provision was put in a number of years ago is that there were surface parking lots being built in front yard spaces and it was really changing -- or threatening to change the character of the downtown.

MR. STRODTMAN: Ms. Loe?

MS. LOE: Mr. Zenner, I believe the Commission is concerned about maintaining or creating a pedestrian zone. Is there a minimum width for a planting area that may -- that is suggested or recommended for maintaining a viable landscaped area?

MR. ZENNER: And I think given -- and I apologize, the content sometimes gets away from us here. So with what Mr. Teddy just read, there's a -- the reason I don't recall it is because I didn't add it. The provision that Mr. Teddy read, and it's (B) -- big (B) and then little (b) within the paragraph, as long as you're not more than 60 feet in width, you could pull that parking area forward. It doesn't -- you could have a parking area -- it doesn't specify how close. So, yes, the space -- and we have a defined buffer width right now, a minimum landscaped buffer of six feet, it applies. And in that particular instance, I would probably tell you that the minimum buffer widths -- so you could not pull a parking area closer than six feet to the property line, which would basically reduce your 24 -- 24 minus 6 is what, 18? You've basically taken an 18-foot reduction in the setback line provided you screened -- you did a street wall. Now, the way that this reads, it does not offer a landscaping option in that provision; however, item (xi) on the same page does. That is where we had added the landscape screen. So it could be a combination of a solid wall landscaping screen, it could be landscape screen that meets the minimum landscape buffer requirement, which is what we use for any other parking lot. So at that point if you want to specify in big (B), little (b), within this section that the parking area cannot come forward more than -- it cannot be within six feet of the property line, that is probably the clarification that is needed in order to address what the CID comment has been made and what Mr. Land has presented tonight as well. So that would reduce it. It would give an 18-foot reduction. I would strongly suggest that that 18-foot reduction not be permitted on Ninth or on Broadway, and that the 24-foot setback be required to be maintained on both of those streets given the characteristic activity that is there of retail use. Couple that with the fact that the majority

of what is already in existence is -- it's the built environment, and we don't want to encourage, probably, buildings to be torn down to be replaced with parking lots by reducing the front parking setback in those locations specifically. However, anywhere else downtown I think is fair game, if that is how you would like to approach this.

MR. STRODTMAN: Ms. Loe?

MS. LOE: I had a question about minimum width for landscaping.

MR. ZENNER: Six feet.

MS. LOE: It -- that will keep a viable landscaped --

MR. ZENNER: Pedestrian environment?

MS. LOE: Yes.

MR. ZENNER: Yeah. And it will actually -- that particular width is what is defined as being a -- the minimal area for a viable --

MS. LOE: Okay.

MR. ZENNER: -- living screen.

MS. LOE: Mr. Zenner, your comments were addressed at big (B), little (b), but I think we are also looking back at (x) -- (ix), where they have the generally 24 feet behind the property --

MR. ZENNER: And the -- so the --

MS. LOE: What -- what would the difference be if we changed that to six feet versus big (B), little (b), note, cannot be within six feet of the sidewalk? Big (B), little (b), that 60 feet in width seems pretty restrictive.

MR. ZENNER: If our Commissioners have an errata sheet in front of them, and again, I apologize, I do not. If one can find under the M-DT revisions specifically that were made, if one can look up for me because I believe we have referenced the six feet in the amendment to item (xi), I believe I have added -- there was added text. I saw it earlier this evening when I was looking at my version of it on line, we had added it in that particular area. I just want to make sure that the cross-referenced notation to 29-4.5 (e) is there because that is what defines the six-foot minimum. If it is, I understand your point, Ms. Loe. The way that this -- the way that the standards on page 187 that we were requiring that the landscape buffer be added, it will read -- and this is what is referred to on page 187 of the Code, item number (i) -- or (xi), so it would be Roman numeral eleven, the text is being proposed to be revised per a previous amendment, Street walls may be constructed either -- constructed utilizing either masonry, ornamental materials or a private landscaped buffer in accordance with the provisions of 29-4.5 (d) (1) or any combination thereof. Walls may be opaque or partially opened and may include landscaping. So the idea here with that revision was to emulate or replicate the type of parking lot separation that we have at the Bank of America building or that we have over here at Landmark. So that would fulfill that. So going back to Ms. Loe's principle question then, item number (ix), on the same page, could be reduced or could be revised to take -- if you wanted to create in the beginning paragraph of item number (ix) and -- the 24 feet because it applies to (A) -- that's why it is stated --

MS. LOE: Right.

MR. ZENNER: -- the way that it is stated because (A) is basically saying that you have to comply with the 24-foot setback on Broadway and Ninth.

MS. LOE: And (ix) is actually for the floors above the first floor. So we are looking at (B), but not big (B), little (b) necessarily.

MR. ZENNER: So --

MS. LOE: Looking at --

MR. ZENNER: Yes. Yes. So (B) would be -- if you revise the first line in (B) that parking shall not be located closer than -- 24 would be amended to 6 feet -- to the required building line on any first-floor level, with the following exceptions. And then little (b) does not need to be amended because little (b) is going to allow you -- you are going to be required to have a street wall. The street wall is in item number (xi) -- Roman numeral eleven. And it gives you that specification. And basically, (B), after you revise 24 feet to six feet, it allows parking to be actually added -- or on the second story and above, directly to the RBL. So, in essence, if you did a shop space on the ground floor, you have an option at this point. If you wanted to do underground parking or first-floor ground parking, you still are not going to be able to have that parking directly at the required building line at the first floor on any other street other than Ninth or -- any other street other than Ninth and Broadway. It basically limits the usability of the ground floor space as a viable retail shop space because of depth will be reduced so significantly. But if it -- this could have addressed possibly the issue associated with the Harold's Doughnut shop building to where you may have been able to accommodate tuck-under parking in the building forward of the 24-foot setback line or the parking line as it exists today to accommodate that parking on site if it didn't completely diminish the viability of your construction project, and you didn't choose another option such as leasing parking spaces from the City or finding another parking contract area within a quarter of a mile of your building site. I would suggest if you are trying to resolve the matter as has been presented this evening by the CID and requested by Mr. Land, revise the item number (ix) (B) by striking 24 feet and revising that to no closer than six feet to the required building line. All other standards that have been revised that will afford us the opportunity to ensure street wall is provided.

MS. LOE: Uh-huh. I'll make that motion.

MR. STRODTMAN: Ms. Loe.

MS. LOE: 29-4.2 (d) (ix) (B), strike "24 feet" and revise it to "no closer than six feet to the required building line".

MS. RUSHING: Second.

MR. STRODTMAN: A motion has been made by Ms. Loe to change the 24-foot required building line to six foot -- no closer than six foot, and seconded by Ms. Rushing. Discussion, Commissioners? Questions? I see none. When you are ready, Ms. Burns.

MS. BURNS: Yes.

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

Ms. Burns, Ms. Loe, Mr. Harder, Mr. Strodtman, Ms. Rushing, Ms. Russell. Voting No:

Mr. MacMann. Motion carries 7-1.

MS. BURNS: Motion carries seven to one.

MR. STRODTMAN: Thank you, Ms. Burns. Additional items, Commissioners?

MR. TOOHEY: I'll go ahead and make a motion.

MR. STRODTMAN: Mr. Toohey?

MR. TOOHEY: I make a motion that we strike section 29-4.8, neighborhood protection standards with the intent that we bring those back in January and come up with some ideas that will help provide a remedy to both neighbors -- or both -- all property owners affected by those neighborhood protection changes.

MR. STRODTMAN: Commissioners, a motion has been made. Will there be a second?

MR. HARDER: I'll second it.

MR. STRODTMAN: A motion has been made to strike -- what was the section number again, Mr. Toohey? Sorry.

MR. TOOHEY: 29-4.8.

MR. STRODTMAN: Was made by Mr. Toohey and seconded by Mr. Harder. Commissioners, discussions? Mr. MacMann?

MR. MACMANN: You would like to strike neighborhood protections to a later date? Is that -- I'm not following that --

MR. TOOHEY: Yes. I would just like to allow us more time. I mean, I understand people want to move forward with the UDO. I understand that. But I feel like if we could have some more time to discuss this section and then send it forward --

MS. RUSHING: And I need to say that I have made votes on items during our discussion based on the fact that there were neighborhood protections. And if those are stricken, then I may need to revisit some of my votes.

MR. STRODTMAN: Ms. Burns?

MS. BURNS: I don't agree with striking that section. I understand that there is not a win-win situation and there is never going to be a win-win situation, but to strike the entire thing to a later date, to me, does not serve the people that have come here and discussed it. We need to move it forward and have Council continue to discuss it and continue to refine it.

MR. STRODTMAN: Mr. MacMann?

MR. MACMANN: This section along with a lot of other sections are amenable. And even if it passes Council as it is, I think the process will continue on a variety of fronts, including this one. And I see them as net plus -- for the neighborhood protections, that is.

MR. STRODTMAN: Additional discussion? Ms. Loe?

MS. LOE: I'm not sure I could comfortably approve this segment without something in place, so I don't think I can support removing it at this time.

MR. STRODTMAN: Ms. Russell?

MS. RUSSELL: I'm not sure striking it really accomplishes anything. I think we can come back and do some amendments on the 5th, if we can find a win-win. I'm not sure where that win-win is with this neighborhood protection. It feels like we are stuck in the middle of a war, and so I don't see what striking the whole section does.

MR. TOOHEY: I just feel like it could give us some more time if we need to extend the conversation a few more weeks or to a few more meetings.

MS. RUSHING: We have more time, even if we leave it in place to come back and propose amendments.

MR. STRODTMAN: Mr. MacMann?

MR. MACMANN: On that very topic we have issues that stand unresolved. The historical preservation, zoning northeast of the M-DT -- there are a variety of issues that are still to be addressed in the future, but I -- be that as it may, I find the neighborhood protections very minimal, very doable. They leave profit in and they provide some protections for the individuals in the neighborhoods. To strike them sends a very unfortunate message to the 20,000 or so people that live downtown --

MR. TOOHEY: And I --

MR. MACMANN: -- and throughout the City because we have had this issues -- downtown, we have the R-MF issue -- and I'll finish in just a second. We just had a case and we had three cases last time where neighborhood protection that the neighbors wanted, they didn't want through streets. That is what they didn't want. So neighborhood protections is an ongoing issue that we will have to continue to have to parse out. And I don't think setting it aside serves anyone. I think having something in place and moving forward, perhaps a piece at a time, is a better way to go.

MR. TOOHEY: And I understand the intent of having them. I think there does need to be some sort of neighborhood protections, but every time we have tried to come up with a remedy during our work sessions, we can't come up with that. And so that is why I am making this motion, so that if we do strike it, it would allow us more time to still process what that remedy would be for the property owners who feel like they're losing value in their properties because they're not going to be able to potentially do with their property what their intent was when they purchased it.

MS. RUSHING: And then if we don't come up with anything, there's nothing.

MR. TOOHEY: I think all of our intents, it was very clear to have some type of neighborhood protection.

MR. STRODTMAN: Mr. Zenner?

MS. RUSHING: Then let's leave this in place until --

MR. STRODTMAN: Mr. Zenner?

MR. ZENNER: If I may just provide a little bit, maybe, perspective here. I mean, you can make a -- a motion is on the floor to eliminate the entire section. However, I believe what Mr. Toohey just said is there was an -- there was an understanding that something was going to be moved forward. And I get

the sense that the Commission, as a whole, while acknowledging that this section has challenges associated with it, does need to have some additional review. The motion may be, if your pending motion fails, is to -- as part of your motion for the entire UDC to Council is to acknowledge or state specifically within that motion that this particular segment or this particular section of the Code has proven extremely challenging and troublesome as it relates to the conflicting values of the opposing groups and that it may warrant additional review and that the Commission would welcome the opportunity to do so. Council could choose to suspend the application of this particular section in their venue as they deliberate on it. They could approve it as it is written with specific remand back to the Commission, as they do often with other text amendments to work on it to address those competing issues. So, I mean, I think if the Commission does not feel it appropriate to delete the entire section at this point, I think that the point that Mr. Toohey is making can be conveyed to the Council just by observation such as Ms. Russell's motion today to deal with the conditional uses on the Commerce Court area and conditional uses in general within the Code, seeking Council to redirect this particular segment back to you for additional review. That may -- that may be a middle point for you all if you do generally agree that this section needs more work and we need to see if we can't come to that common ground short of deleting it in whole.

MR. STRODTMAN: Thank you, Mr. Zenner. Commissioners, any additional discussion needed? I see none. Ms. Burns, when you are ready.

MS. BURNS: Yes.

Roll Call Vote (Voting "yes" is to recommend approval.) Voting Yes: Mr. Toohey, Mr. Harder. Voting No: Ms. Burns, Ms. Loe, Mr. MacMann, Mr. Strodman, Ms. Rushing, Ms. Russell. Motion denied 6-2.

MS. BURNS: Motion carries -- motion fails six to two.

MR. STRODTMAN: Thank you, Ms. Burns. Commissioners, additional motions? Ms. Loe?

MS. LOE: We received communication with some concern about the definition for group homes. And I don't believe we have modified that definition yet. I would like to make an amendment to the definition -- it's page 28, item 29-1.11, definitions. Page 28, definition of group home, small, add the sentence "Residences with up to three unrelated residents are not defined as a group home".

MR. STRODTMAN: So for clarification, Ms. Loe, is that in the group home, large or group home --

MS. LOE: Group home, small.

MR. STRODTMAN: Small. Okay. Thank you.

MS. LOE: Adding a sentence.

MR. STRODTMAN: Mr. Zenner?

MR. ZENNER: End of the definition. Right?

MS. LOE: At the end of the definition, per our discussion --

MR. ZENNER: Yes.

MS. LOE: -- previously in work session.

MR. STRODTMAN: Mr. MacMann?

MR. MACMANN: Do you have second?

MR. STRODTMAN: No.

MS. LOE: I do not have a second.

MR. MACMANN: You've got one now.

MR. STRODTMAN: So a motion has been made and seconded by Mr. MacMann.

Commissioners, discussion?

MR. HARDER: Can you repeat the motion?

MS. LOE: Move to modify the definition of group homes, small, at 29-1.11, definitions, add a sentence "Residences with up to three unrelated residents -- with a t -- are not defined as a group home". And just a commentary on that, that is just clarifying it already meets the definition of family in our Code.

MR. STRODTMAN: Mr. MacMann?

MR. MACMANN: Just to follow-up on that, that resolves half of the issue as it was presented to us. We still have the 48 issue to address; is that correct? No?

MR. ZENNER: No.

MS. LOE: I think this addressed that.

MR. MACMANN: This addresses all that?

MS. LOE: Yeah.

MR. MACMANN: Okay. I just --

MR. ZENNER: The other -- the other issue had to deal with distance.

MR. MACMANN: Distance, 1,000 feet.

MR. STRODTMAN: Commissioners, additional discussion? I see none. Ms. Burns, when you are ready.

Roll Call Vote (Voting "yes" is to recommend approval.) Voting Yes: Mr. Toohey, Ms. Burns, Ms. Loe, Mr. Harder, Mr. MacMann, Mr. Strodman, Ms. Rushing, Ms. Russell. Motion carries 8-0.

MS. BURNS: Motion carries eight to one.

MR. STRODTMAN: Thank you, Ms. Secretary.

MS. BURNS: I'm sorry. Eight to zero.

MR. STRODTMAN: Thank you, Ms. Secretary. Ms. Russell?

MS. RUSSELL: So, Mr. Zenner, do we need to make a motion to get -- to ask Council to return neighborhood protection to us or do we just need to make that a comment in the minutes like we did --

MR. ZENNER: I would say make -- I would say make it a comment in the minutes. It will be in the report, and I think as we summarize the Commission's deliberation, that will become a primary topic as it relates to the deliberation and the challenges that you all encountered at arriving at a final recommendation. It has been a very prominent feature of our discussions of our hearings. Those are the types of things that we would identify for Council so they are aware of them.

MS. RUSSELL: So I would like to make a comment for the minutes that neighborhood protection standards continues to be a stumbling block for the Commission and we would like the Council to return it to us for further deliberation.

MR. STRODTMAN: Thank you, Ms. Russell. Ms. Loe?

MS. LOE: We also received a letter from the Historic Preservation Group about expanding the urban storefront area. And I wanted to acknowledge that letter since we had also received commentary from DLC on the same matter. We did discuss this in work session and the consensus of the Commission was that the change proposed was a large change, and we simply didn't have the adequate opportunity for -- to vet it or to have the public vet that change. So it's something that again could be looked at in the future. And anyone is free to add comment to that, but I just wanted to acknowledge that we had received that and we did review it.

MR. STRODTMAN: Ms. Burns?

MS. BURNS: It was my understanding that there was going to be a representative from Historic Preservation tonight, but no one came forward, so again, that didn't allow us to continue that discussion in a public fashion.

MR. ZENNER: Mr. Chairman?

MR. STRODTMAN: Yes, sir?

MR. ZENNER: You received correspondence from Jay Lindner, and I believe this was raised in work session before this evening's meeting, and maybe Mr. Toohey would like to make reference to that letter that we have received regarding a request to give consideration to use-specific standard (aa), which refers to retail in general. I'm not sure if, Mr. Toohey, you would like to address that matter as you had asked in work session or if you would like me to just present what Mr. Lindner has provided to you all so the public has an opportunity and that's at least acknowledged in the record.

MR. TOOHEY: I'm fine with you going ahead and presenting that, Mr. Zenner.

MR. ZENNER: Jay Lindner with the Forum Development Group provided us this evening a letter as it relates to retail use size limitations, which is use-specific condition (aa), and several concerns and questions were raised within his letter indicating concern with the square-footage limitations for a retail use that would appear -- a general retail use appearing in the M-N or the M-BP zoning districts. These are the replacements to the C-1 and to the M-C, our office park zoning district in the industrial area. In that use-specific condition, inline or single tenant stores are limited to a maximum square footage of 15,000 square feet with the exception for a grocery store being allowed at 45,000 square feet. Mr. Lindner expresses a concern that the wording is problematic and will result in a loss of property values as well as a regulatory taking for many properties in the community. As I indicated, M-N is C-1 today, and he indicates current C-1 properties that have grocery store or retail stores in excess of these requirements include the Nifong Shopping Center, Rockbridge Shopping Center, Kohls, Orscheln's on South Providence, Hyvee on West Broadway, Crossroad Shopping Center, Stadium Plaza, and Westlake Ace Hardware. Then he specifically refers to property the Forum Development Group has, which

includes the Nifong Shopping Center, cannot redevelop under this requirement in the event we lose our anchor store, Gerbes. If that were to happen, the retailers we have spoken to are all in excess of 15,000 square feet, and it is unclear as to whether we could ever -- or even backfill Gerbes with a new grocery store as their footprint is currently 59,000 square feet. Suggestions as it relates to his concerns and questions are to remove to the limitation that is in use-specific standard (aa) completely or rezone the above listed properties to M-C in conjunction with this ordinance. The M-C zoning classification is the replacement to C-3, which is our highway commercial zoning classification, so as we have discussed previously, uses that are existing today that are impacted by a Code revision such as a use-specific standard are legal nonconformities, and as long as a similar use were replaced in that 59,000-square-foot tenant space, it would be a legally permitted replacement as long as that intensity did not increase. He has listed a series of very specific centers for my analysis of what we have here that may be more appropriately addressed on a case-by-case basis rather than a comprehensive elimination of the use-specific standards which are really designed to ensure that we have neighborhood scale for neighborhood shopping centers. And that is why those standards currently exist. We are trying to ensure that if you're going to do neighborhood retail, that scale of that shopping center is an equivalent to what we have at a WalMart or something else where there is no limitations associated to it. So with that comment as well as my additional commentary on the comment that is made, if you have any questions, I would be more than happy to try to answer them for you.

MR. STRODTMAN: Mr. MacMann?

MR. MACMANN: Thank you, Mr. Chairman. Mr. Lindner's issues could be -- to follow up on what you said, Mr. Lindner's issues are because the stores -- and some of the sites, I don't agree with his list -- about neighborhoods. And the size limitations are to protect said neighborhoods. Correct?

MR. ZENNER: That would be correct as they are currently C-1 --

MR. MACMANN: With that in mind, if he were to do this a year from now when the Code was in place, his relief would be to seek a zoning change, which would involve a public process with Council and his neighbors. Correct?

MR. ZENNER: That would be correct.

MR. MACMANN: Thank you, Mr. -- Manager Zenner.

MR. STRODTMAN: Commissioners? Mr. Harder?

MR. HARDER: I was wanting to know if the uses example, the Nifong Providence -- I think it is the Nifong Shopping Center, the anchor store, if they were seeking a replacement, they would have a year to find an equal size replacement, and then after a year, what would happen?

MR. ZENNER: If I recall correctly, the extension request for more than the 12 months, which is by right within the Code is through the Board of Adjustment. And again, I would just like to reiterate that the marketability of that space -- because it would be considered a legal nonconforming use for a similar use wouldn't necessarily need to be a grocery store, but a use that has the same use intensity would be allowed within that space even though it may exceed the square footage maximum. A 59,000-square-

foot space could be subdivided into three compliant 15,000-square-foot retailing environments within the M-N use-specific standard. And if a grocery store were to relocate there, it would be an identical use to what may have vacated that space, and the 59,000 square feet would be able to be permitted for that purpose.

MR. HARDER: Thank you.

MR. STRODTMAN: Any additional discussion? Ms. Russell?

MS. RUSSELL: Well, if there isn't any additional discussion, I would like to make a motion for the continuance of Case 16-110, the UDC to January 5th, 2017.

MS. LOE: Second.

MR. STRODTMAN: A motion has been made to move the additional discussion to January 5th on this case and has been seconded by Ms. Loe. Any additional discussion, Commissioners, to move this to the January 5th meeting date? I see none. Ms. Burns, when you are ready.

MS. BURNS: Okay.

Roll Call Vote (Voting "yes" is to recommend approval.) Voting Yes: Mr. Toohey, Ms. Burns, Ms. Loe, Mr. Harder, Mr. MacMann, Mr. Strodman, Ms. Rushing, Ms. Russell. Motion carries 8-0.

MS. BURNS: Motion carries eight to zero.

MR. STRODTMAN: Thank you, Ms. Burns. Much earlier than we thought. Okay. Let me grab my agenda here.