

**MINUTES**  
**PLANNING AND ZONING COMMISSION MEETING**  
**COLUMBIA CITY HALL COUNCIL CHAMBER**  
**701 EAST BROADWAY, COLUMBIA, MO**  
**JULY 19, 2018**

**COMMISSIONERS PRESENT**

**Ms. Sara Loe**  
**Ms. Tootie Burns**  
**Ms. Lee Russell**  
**Mr. Anthony Stanton**  
**Ms. Joy Rushing**  
**Mr. Brian Toohey**  
**Mr. Dan Harder**  
**Mr. Michael MacMann**

**COMMISSIONERS ABSENT**

**Mr. Rusty Strodtman**

**I) CALL TO ORDER**

MS. LOE: I'd like to call the July 19, 2018, Planning and Zoning Meeting to order.

**II) INTRODUCTIONS**

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

MS. BURNS: Yes. We have eight; we have a quorum.

MS. LOE: Thank you.

**III) APPROVAL OF AGENDA**

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

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

MS. LOE: Thank you. Can I get a thumbs-up approval on the agenda?

(Unanimous vote for approval.)

MS. LOE: Okay.

**IV) APPROVAL OF MINUTES**

MS. LOE: Everyone should have gotten the minutes from the July 5th meeting. Were there any changes or additions to the minutes? I see none. Can I get a thumbs-up approval on the minutes?

(Unanimous vote for approval.)

MS. LOE: Thank you.

**V) TABLING REQUESTS**

MS. LOE: All right. The first couple of cases we have tonight are some tabling requests. The first one is Case Number 18-115.

**Case No. 18-115**

**A request by Cypress Creek Renewables, LLC (agent), on behalf of Dunlop Development,**

**LLC (owner), seeking rezoning of a 93.85-acre parcel of land located on the south side of I-70 Drive SE, approximately 2,000 feet east of St. Charles Road. The property is currently Zoned A (Agriculture District) and the applicant is requesting approval of PD (Planned District) zoning to allow for the installation of a 10MW solar energy facility. (A request to table this item to the August 23, 2018, meeting has been received. This is the applicant's third request to table. This item was tabled at the June 21 and July 5 Planning and Zoning Commission meetings.)**

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

MR. ZENNER: Yes, you may, ma'am. Pursuant to the Rules of Procedure for the board -- or for the Planning and Zoning Commission, an applicant is entitled to two tabling requests at their discretion and volition. Typically and historically, we have always approved up to two tabling requests asked for by the applicant. Your Rules of Procedure indicate that a third tabling request may be granted at the discretion of the Planning and Zoning Commission. The applicant is here this evening to express to the Commission why such third tabling request is needed. As you can see from the requested tabling date, this is a month from today's meeting. That length of time has been recommended by the City staff as a minimum amount necessary in order for us to conduct a new public information meeting as it relates to the scope of what the project is seeking to have approved, as well as to adequately re-advertise the property since it has been over two months since the project was originally submitted and a desire to be handled on its original Planning Commission agenda, which was back at the beginning of June, if I recall correctly. So, at this point, staff is not here to make a recommendation as it relates to this. The applicant's indication of why they need to have a tabling request is to be presented to the Commission and from that the Commission may make a decision to present the request -- or to table the request to the date that has been requested or to another date certain, or if you choose to not table the request, it would basically need to be handled as advertised for this evening's meeting. And that advertising, just so we're aware, since we have previously tabled to a date certain, there has been no new advertisement. So we are carrying forward right now based upon that original public notice that was sent out in accordance to our procedures. When you table a request, we are not, by our standard practice nor by the UDC, required to re-advertise to the new meeting date. So this evening is a -- is a pivotal moment for the Commission to make a determination. This is the second third tabling request we have received in the recent past, and in the ten years I have been here, we have normally never tabled as many projects out to this length of time, so it is something that the Commission does need to consider thoughtfully with the information that the applicant will provide. If you do not table again, we would have to proceed forward to present a staff report that has not been presented to the public nor presented to the Commission. And our standard procedure is when a request is presented to us to table, we do not produce any staff reporting information given that the request to table is generally associated with the need to refine or provide additional new information and to provide something that is incomplete may lead to greater levels of confusion. So with that, I'm going to turn the floor over, I believe, to the applicant or the applicant's representative to come and approach the podium and address

the Commission.

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

MR. NOVACK: Certainly, I'll start. My name is Scott Novack; that's N-O-V-A-C-K, 18 South Michigan, Chicago 60603.

MR. TAKAGI: And my name is Makidi Takagi, that's M-A-K-I-D-I T-A-K-A-G-I, and my address is 3250 Ocean Park Boulevard, Santa Monica, California.

MR. NOVACK: Okay. First of all, good evening, and thank you for -- for hearing us tonight. In short, we're requesting a tabling so that we can have -- so that we can put our best foot forward. It's not -- it's not new to us to be in a new jurisdiction. The nature of our business is we are a -- the national developer, so we're developing solar farms really all over the country. And so oftentimes it will be our first time with a jurisdiction. However, sometimes the processes take a little bit longer to learn in various jurisdictions, and we really want to make sure that we have a complete and comprehensive plan that addresses all of staff's comments. And in the previous iterations, the previous rounds before our first tabling and second tabling, we simply just did not have enough time to be able to reformulate, incorporate all of the comments into our plan, into our complete application to be able to get to a spot where staff was comfortable that we've addressed everything and that we were comfortable that we addressed everything. Now, believe me, it is in our best interest to move through these processes quickly. It's a cliché, but time is money, and we do not like to spend a whole lot of time through the zoning process of a development cycle, and so we have every intention of this being our last tabling. And I truly believe -- well, I know that we have enough time with this schedule that has just been dictated to incorporate all of the comments, revise our final application, get it in and present with our full team on August 23rd. And Makidi and I -- Makidi and I are both project developers for the -- for the company, and we're both happy to answer any questions that relate to this request or to our project in general.

MS. LOE: Thank you. Are there any questions for these speakers? Mr. MacMann?

MR. MACMANN: Thank you, Madam Chair. Gentlemen, welcome. I have a couple of questions. The first one is, is this new date enough time?

MR. NOVACK: Yes.

MR. MACMANN: Are you sure?

MR. NOVACK: Barring any unforeseen circumstances --

MR. MACMANN: Well, I didn't mean to be flippant, but --

MR. NOVACK: No. I understand.

MR. MACMANN: -- there is a great -- there's two public desires going on. One is cool, we're getting a solar farm. That's great. A bigger one -- we have some smaller setups. Two, the longer these things go on, the public confidence tends to erode, and a lot of concerns about financing and capability come up. Can you do anything to reinforce our personal and collective and community confidence in this project that this is plenty of time and you guys are going to be ready to go?

MR. NOVACK: I would say we were very, very close to being ready to go on this exact time frame. These extra couple of weeks will get us exactly what we need to get that final -- final complete application over the line. But from a financing perspective, both on debt and equity, from a utility perspective here with Columbia Water & Light, there aren't other hurdles that sometimes arise in other projects that could potentially put a wrench in -- in one of our other processes, such as zoning. Those don't exist here. This is just a matter of time to get everything in order, and we definitely believe that this August 23rd date, this tract we're on now, we'll be able to hit.

MR. MACMANN: I have one more question and then I'll -- I'll step back and let my other Commissioners go. Some of our community members, some of your prospective new neighbors have had some concerns. Have you been -- I saw you speaking with some of them just a few moments ago. Do you remain open to their concerns and to address them to the best of your ability?

MR. NOVACK: Certainly. We actually really appreciate the opportunity to be able to talk to neighbors. And I see that tonight was only the beginning of that interaction. And I mentioned to those that I have spoken to already that we're open to receiving calls, e-mails with questions, talking tonight, talking after tonight. So absolutely.

MR. MACMANN: All right. Thank you. Thank you, Ms. Chair.

MS. LOE: Thank you. Are there any additional questions? Mr. Stanton?

MR. STANTON: To piggyback on my colleague's question, this is a very active and intelligent citizenry we have here. You have made all efforts to discuss any issues that they may have had about your project, and have you spent adequate time? Because when you come back, I want to make sure we're not having this debate because this is plenty of time to talk to the neighbors.

MR. NOVACK: That's an excellent comment, and the short answer is we're just beginning that process now because of the timing of -- of when we would be fully prepared to address this committee. And so absolutely in the next four weeks; right -- we have a wonderful amount of time, adequate time to speak with anybody who has concerns about the project or about solar PV in general, and that's something that we're so used to doing developments in communities; right -- where -- where it's the first, and so there's just so many questions. So just a big part of our development process is just that, reaching out to the neighbors and making sure that we're a resource to be able to answer questions so that people know a little bit more, feel a little more comfortable about what it is that's being proposed.

MR. STANTON: Well, in the third tabling, you're just getting to the citizens now, or you have had this throughout the first, second tabling. You've just talked -- this is not the first time you're meeting your neighbors is what I'm getting at?

MR. NOVACK: Okay. So this outreach effort typically happens on our -- on our cycle a few weeks before we have a public hearing. And so that hadn't come up yet. Granted, I realize we're here right now in a public hearing, but we had this pegged based on the timing and how our interactions have been with staff that this would not be our main public hearing. So weeks ahead of our main public hearing

is when we want to make sure that we're involving everybody and offering ourselves up for questions from the neighbors.

MR. STANTON: Thank you.

MS. LOE: Ms. Rushing?

MS. RUSHING: And I'll go back again to Mr. MacMann's questions. When you repeatedly asked for items to be tabled, that's a burden on people who might wish to speak either for or against your project. So if we were to grant this tabling request and to indicate that there wouldn't be any more tabling requests granted, that it's dropped dead on August the 23rd, is that still -- are you still confident that's going to give you enough time to come forward with the presentation that's going to be perhaps successful?

MR. NOVACK: Yes.

MS. LOE: Mr. Toohey?

MR. TOOHEY: So my question might be for staff also. Is some of this delay because of an interpretation of the Code from you and a difference from the staff, since the Code is so new?

MR. ZENNER: I believe there has been an issue associated with an understanding of the full scope of the regulatory requirements. Now there are aspects associated with this particular project, due to the fact that it's not your standard redevelopment where we would be creating significant impervious surfaces, for example, on the underlying land, that these are elevated -- would be elevated solar panels. So there was some discussion early on that there was a little bit of uncertainty as it related to the storm-water regulations and how they would apply. So that has been part of what is being worked through with the applicant and their design consultants that they're working with our staff. We have also had some other issues associated with just meeting some of the completeness standards of our development -- the development plan requirements, which is, as indicated, a nuance to this particular jurisdiction. So some of the nature of what we have within our Code is different and has been a little bit more challenging, I think, for us to be able to get compliance with. And then there have been other -- other aspects of our development Code that we've had to evaluate to ensure are we applying this properly given what is being proposed to be installed on the site. It's a combination of both. I think there is some regulatory delay from our perspective as administrators of the Code, and then also the unfamiliarity of the client and the customer that's coming to ask for this change to get that package together. I would suggest as it relates to some of the concerns as it relates to public interaction, as I pointed out, this delay is a result of -- the requested delay is a result to ensure that we have an additional public information meeting which, as many of our Commissioners realize, that that is a step normally that we do as early notification to adjoining property owners that there is something going on adjacent to them. That will occur on the schedule that this particular project would be pushed to, should you grant the variance, to July 31. That public information meeting would be held here within City Hall in our lobby where we hold our normal public information meetings. I would hope, and you may want to ask the applicant, if they intend on being here to address public concerns that may be brought forward at that meeting to ensure that between the time of that public information meeting and the

preparation of our report, which is about two and a half weeks, all comments can be taken into incorporation into the revised plan set. That is one of the issues that we need to make sure that gap is closed and there's a clear understanding that there's a commitment to that type of coordination. Some of where we get into the debate that you may have is if, in fact, there is an adequate time to be able to revise the plan to put their best foot forward given maybe the scope of those questions or comments that get made. I think that feeds into the issue, is the 23rd the right date. I -- this is a cooperative project and I think we have discussed this broadly. I don't want to go into great detail. Cypress Creek Renewables is a private power company that is looking to build this solar facility. However, there is a power purchase agreement that exists with our City Water & Light division as it relates to meeting sustainability goals. So the time is of an essence as it relates to the City, as well as to the applicant, so we're trying to make sure that we can balance those. The commitment of the applicant here for the 23rd is being a date that they can meet with the expectation that there's a public information meeting on July 31 and resolving those outstanding comments which I think we are very close to being able to resolve with our -- our integrative reviewing departments, is realistic from our perspective. It is the applicant's need to communicate with the adjacent property owners to, I think, address some of the concerns that have been raised at our two tabling requests that we've had, and I think they're well aware that that's essential at this point.

MS. LOE: Ms. Russell?

MS. RUSSELL: So just so I'm clear, prior to your first and second requests of us, did you have any meetings with the public?

MR. NOVACK: No, not -- not at that point.

MS. RUSSELL: And I will follow Mr. Zenner's advice. Will you be at the 31st public hearing?

MR. NOVACK: Yes.

MS. RUSSELL: And will you be here on the 23rd?

MR. NOVACK: Yes.

MS. RUSSELL: And for sure, the 23rd is enough time for you to get this together?

MR. NOVACK: Yes.

MS. RUSSELL: Thank you.

MS. RUSHING: And I just wanted to make sure. Staff is saying that's enough time for staff also?

MR. ZENNER: At this point, we really have to -- we do not know what the full public comment may be. I think there are issues that the Commission obviously is going to have to deal with should there be particular public comment that is made that the applicant is not capable of being able to incorporate into the plan, that's a discussion topic that the Commission is going to have to wrestle with at the time that the actual hearing is occurring. There are certain things that adjacent property owners may be asking of the applicant that the applicant feels is unreasonable. The City does not have the authority possibly to apply that as a regulatory standard. You, as the Commission, may have to make that decision if that's part of what the plan is moving forward. The applicant can provide their justification for why they're not doing it.

The public will have their public opportunity to speak and address the Commission at that time. The technical aspects of what we have to work out as they relate to our storm-water compliance, tree preservation, and the other technical standards for a complete plan set I don't believe have any concern of being able to be met by the 23rd. We may, may not have them done by the 31st. That's about a week to a week and a half away. So the plan that we're going to be presenting at that PI meeting may not be the final revised plan, but we will at least have a clearer understanding of all of those other technical components are able to be addressed or are going to be able to be -- have been addressed or will be able to be addressed within the short period after that 31st meeting. I think any additional information that gets provided by the public at the 31st meeting is something that the applicant would have to include then into the plan as a final revision that then would be presented to the Commission as part of our staff report, if possible. I mean, and that's something that we just have to -- will have to wait for what the public comment is in order to determine if we've got a regulatory standard that we can apply that will make that change necessary, or if it is a desire of the adjacent property owners to have the applicant incorporate that, and then the applicant has to make that business decision if they desire to or not.

MS. RUSHING: And so we would decide on the 23rd. So if -- if the applicant comes forward and says the neighbors have presented us with these concerns, and we think we can address them, but we haven't yet, they -- they could be out of luck because we're going to be deciding on what's in front of us on the 23rd?

MR. ZENNER: The Planning Commission has the authority within its rules or within its -- within the regulatory procedures to approve the plan as submitted by the applicant, approve that plan with conditions, and it's not uncommon on a Planned District if there is negotiation that needs to be done. And I think to Mr. Stanton's point, we'd like to have all that negotiation completed before the 23rd. Unfortunately, those of you that have been around long enough know that that's not always possible, and we sometimes have to negotiate on the dais to get the applicant to do things. But that becomes a conditional approval at that point, Ms. Rushing. And the way that we, as a staff, handle conditional approvals is we will not move an item to the City Council's agenda without the plan adequately amending -- being amended to incorporate those conditions within it. And generally the notation that goes to Council then is what the Commission's recommendation was, and that the plan has been revised to show or meet those conditions. That's the typical process that we operate on on a Planned District approval where there may be negotiated issues at the evening of the public hearing. You also have the authority through your Rules of Procedure, as well as through the general procedural standards within our Unified Development Code, to table a request. You can, at that point, table the request to allow for the public to have additional time to review the revised materials, and then, in essence, carry -- carry the item to the next meeting. What we're here for for this evening is the applicant's request of the Commission to table for a third time. You get a presentation provided to you with a plan that's 99 percent there, but you want that 1 percent included and provided back to the public, that's your prerogative at that point to table. You can do so, or you could move it forward as

a conditional approval. Again, I don't know what the full public comment may be, and I don't know if the gravity of that public comment and what may or may not have been included in the plan by that point would necessitate a desire of the Commission to table. I'm confident in our staff, as we have done many times, to ensure that outstanding conditions are met before we forward any item to City Council if that is the direction of the Commission. We're the gatekeeper before you can get anything on an agenda here, and we're the gatekeeper before they can get it on a Council agenda, and I think we do a pretty good job of gatekeeping.

MS. LOE: Mr. Novack, you mentioned that Cypress Creek typically schedules a public meeting or public information session?

MR. NOVACK: We have different approaches to various situations depending on the circumstance. Oftentimes we prefer to have more individual discussions. If there is a public meeting as part of the zoning process as there is here in Columbia, then that could be an opportunity for us. I think when the first one came around, it was a little bit early in the process for us then. But certainly I do feel, especially as -- as this conversation unfolds, that an opportunity to meet before the public prior to the 23rd is a really good idea, and something that we will commit to doing.

MS. LOE: And that was going to be my question. If the City's public information session could stand in or would stand in, or if you would plan on having a second one, but it sounds like it would stand in. Are you aware that we've already received some public comments on this project at the earlier tabling requests?

MR. NOVACK: I have heard a little bit. I don't have the exact detail to what those comments looked like, but I have discussed the concept.

MS. LOE: But can we make sure that the applicant does get those comments so those are getting through to them? One of those comments has been that there has not been information readily available about the project. So has more information been made available recently or will it be made available before July 31st?

MR. NOVACK: I am happy to offer up more information, both Makidi and I are. We certainly will provide our contact information so that the lines of communication could be wide open.

MS. LOE: Mr. Toohey?

MR. TOOHEY: Isn't all that information online?

MR. ZENNER: It is online, and we have -- the initial application material is online. Now that is through our -- through our community dashboard, so -- and that information online, if I'm correct, it has a 35-page document that explains what Cypress Creek Renewables is about. It has a copy of the originally submitted site plan and the actual formal application. Now the working notes that we have from a staff perspective, as it relates to our reviews of this project and iterative plan sets that have come in since, do not get uploaded as a part of the -- as a part of the application process since we are continuing to work through the review. So the initial application of what was submitted is there. It has been there since this project was originally submitted, and I -- I would suggest that it's possible that the public doesn't realize that that

material is there, but it is, and it is available on the community dashboard, and it is available if an individual would like to call our offices, we'd be more than happy to provide that information to them. They're welcome to come to our offices and review the file, as well. So as we come to closure on the revisions to the plan itself and we prepare a staff report, that staff report and our links on our community dashboard are updated accordingly. We do not produce interim updates to the material based on the fact that it is in review still, and there are still outstanding comments that are being resolved. And again I would suggest that to provide information that is in review may lead to greater questions because all of our outstanding issues have not been addressed and, therefore, create greater confusion. So the way our process operates, the initial application is put online, the next step would be then to update once the Planning Commission staff report is done, and then we final update when the Council approval and legislation has been completed. Those are the three levels of review and three levels of public access from the website that any individual within the community has to any item that comes through the Planning and Zoning Commission. Anything in between that, a simple phone call to our staff and the project manager that is managing that particular project can be made and we can arrange to have the information provided or the file made available for review as is required under the FOIA processes for any public documentation.

MS. LOE: Mr. Stanton?

MR. STANTON: This is for staff. The minutes from the meetings that we tabled before are available online. Correct? And would they have the public comments from the tabled meetings?

MR. ZENNER: That is correct. Now our minutes -- until the minutes from the prior meeting, from your July 5th meeting were just approved this evening, so there is always a lag period of approximately two to two and a half weeks, though we can provide that information in an unapproved copy to the public that may ask for it or to the applicant. Quite honestly, our meetings are also videotaped, so we're live and you can watch -- and they're archived.

MR. STANTON: Oh, okay. Correct. And they're archived.

MR. ZENNER: So you can go back and watch the video of this meeting. Actually, you can watch this video, if I'm correct, live right now, or as soon as this meeting is finalized, it is made available to the public. It's just not fully edited. That generally occurs within 24 to 48 hours afterward. But our videos are available and that's actually the easier the way if you really want to replay the tape instead of waiting for the minutes to find out what was said.

MR. NOVACK: Great suggestion.

MS. LOE: Any additional questions or comments? Mr. MacMann?

MR. MACMANN: Thank you. I had a question for staff. The meeting on the 31 July, when will that notice go out?

MR. ZENNER: That notice is due to go out at the earliest tomorrow.

MR. MACMANN: Or on Monday?

MR. ZENNER: At latest, on Monday. Now, we --

MR. MACMANN: All right. I just wanted to make sure the public had plenty of opportunity to be aware of that. Thank you.

MS. LOE: Thank you.

MR. NOVACK: Sure. Thank you.

MS. LOE: Do we want to have any public comment before a vote or a motion?

MR. ZENNER: This has -- this has been a scheduled public hearing. Typically, on a tabling request -- and I can't reverse the tape and file. We've played this previously at the last two meetings. Typically, on a tabling request, really there is not -- while it is a publicly advertised item, the applicant is requesting for table, we would not normally open the floor to public comment. I will leave it to the discretion of the Commission, should they desire to have public comment for those that came out. That does not negate the ability of that individual presenting this evening any comments that they may have from being able to come to a future meeting. There is a standard associated with Council as it relates to this item or this -- that process. We have not adhered to that. Folks have made -- if they've made the effort to come here this evening and the Commission would like to hear those comments, they are more than welcome to. Unfortunately, I will say again though, from -- from the aspect of having information, we have not produced a staff report. And without a staff report, I am not sure that much could be presented this evening may be discernible by Commissioners because you don't have any information in front of you either. So with that, that's my direction and my suggestion, I don't have a personal preference. I just can tell you that it creates challenge.

MS. LOE: Understood. But we do have the applicant with us here this evening, and it was publicly advertised. If the Commissioners agree, I think having public comment, limiting comment to two minutes?

MR. ZENNER: I would advise you, Ms. Loe, that to engage in a quasi-public hearing, even though we're not going to be discussing this project for a vote, may create some awkwardness in relationship to how the applicant needs to respond or how the Commission even needs to respond to that. Though I don't want to -- I don't want to close the opportunity for those that are here this evening if they would like to address the Commission as it relates to the third tabling, not to this request, that is more appropriate than discussing the request at hand because nobody has seen the report. Staff hasn't completed its evaluation of the -- of the project at this point, and it just -- that potentially creates somewhat of a real awkward situation as we move forward in reviewing anything in the future that will actually constitute the required public hearing.

MS. LOE: Mr. MacMann, then Ms. Burns.

MR. MACMANN: Just real quickly. I believe -- and you all can help my memory here, we have allowed individuals to comment on the action of tabling in the past.

MS. LOE: Thank you. Ms. Burns.

MS. BURNS: Yes. I mean, if there's commentary to be made, I am sure none of the

Commissioners will engage, given that we don't have a staff report, but I do think in the past we have allowed public comment, and I would think we would continue with that, but it is just that, a comment that we are hearing.

MS. LOE: So with that proviso, so this is going to be public comment. It's going to be comment on the topic of tabling this request for the third time. If anyone would like to come forward and comment on that, please approach the podium and give us your name and address.

MR. WAID: My name is Tim Waid; I reside at 2104 Bluff Pointe Drive, and thank you for letting me talk about tabling. So I really want to thank you for your candidness here because really I was interested in finding out what the sticking point on why tabling action is required. So, yeah, there is a lot of questions I have about what has currently been submitted, and I guess maybe I don't ask these questions about the proposal in order to get answers. I suppose I just wait till August 23rd to ask the questions that I'm seeing in the proposal.

MS. LOE: Or the public information meeting on the 31st -- July 31st.

MR. WAID: Public information meeting. Okay. That's too bad. It would be nice to be able to talk about them, but, you know, I -- I -- the sticking point earlier on public information, I think there's a lot of different stages you go through. The session in the foyer or the lobby, I think a lot of that information was very -- just very simplistic. It wasn't detailed. And then the website was difficult to navigate. A lot of information was imbedded rather deeply in ways that -- I initially got a six-page report when I later found out that there was 38-page report that Mr. Teddy was very kind and showed the lady and I that information. So that's sort of a little bit of the confusion about where all the information came from. But I -- I was really just interested in knowing what the sticking point is and why we need to table this. And the sticking point I'm hearing is is that the applicant has not been able to respond to input or review comments by staff, and the secondary part is that the applicant hasn't engaged the public. So I guess I won't engage because the primary point is to allow staff to give the applicant guidance on what it needs to do, and then I guess I come second as a public commenter. Am I characterizing that correctly? Am I talking about things that I shouldn't be talking about right now?

MS. LOE: Mr. MacMann?

MR. MACMANN: I would just say for Mr. Waid and everyone else's benefit, it doesn't -- your ability to comment and your need -- and our need to hear you is very important. I think Mr. Zenner's point, and Pat will correct me if I'm wrong, it does not serve the public good for us to comment on an incomplete or incorrect set of information or data. So that's -- we would just be discussing hypotheticals.

MR. WAID: Okay. Because --

MR. MACMANN: And you don't come -- what I'm trying to say is, you come first, but until there is a set plan and an approved process, your process can't begin or any of you all's process.

MR. WAID: Okay. Because -- because there's just a ton of questions I have about --.

MR. MACMANN: And -- and you're not -- and you're not the only one, Mr. Waid.

MR. WAID: Okay.

MR. MACMANN: And we will get there.

MS. LOE: Mr. Stanton?

MR. STANTON: We love your comments, but we want your comments to have teeth.

MR. WAID: Right.

MR. STANTON: If they have no teeth, you're just exercising; do you see what I'm saying? So we want the comments that you have to stick and to be able to be moved upon. I mean, both sides have all the information they need so that it's viable and it's legit.

MR. WAID: Where would you like for me to deliver those comments?

MR. STANTON: At the -- at the next formal meeting where they should have their stuff together or at the informational on the 31st.

MR. WAID: The 23rd, or the 31st, or both?

MS. RUSSELL: Or both.

MR. STANTON: Or both. Preferably both.

MR. WAID: Yeah. All right. Sounds really good. You can see I just -- you know, I mean, I get outside of tabling questions, so I'll just -- I'll just leave it at that. Thanks for letting me come forward and, quite honestly, it was just a process of discovery that's still ongoing that I'm in, so thank you.

MS. LOE: Thank you, Mr. Waid.

MR. ZENNER: Ms. Loe, if I may, just to respond to Mr. Waid's question as it relates to when should he provide your comments.

MS. LOE: Yes.

MR. ZENNER: Yes. Provide them to the Commission. However, if there are questions that are relevant to the application as he's reviewing the 38-page report, which has again not been generated by our staff. It is an applicant-submitted supplemental document. The applicant needs to be contacted potentially about those -- that content. However, if there are questions specific that may influence or have an impact to the staff's review, based upon what the applicant has submitted, those comments need to be submitted to us as soon as possible, and they need to be submitted to the project manager, which is Mr. Palmer, so we have that as a part of our review. We take into account public comment that is provided to us as part of our review. It gets incorporated into our review. Some issues may be able to be resolved through staff interaction with the applicant, given that an outside entity has provided us an observation to the application or a question, and we would then engage in that. Also any correspondence submitted from adjoining property owners, as you all are probably experienced with, gets included into our staff report, so you know what the applicant's neighbors have been asking to have addressed. Some of those again, as I said, are either taken care of part of our review process, some are left as outstanding comments that may need to be resolved at the Commission level, some as part of the -- as part of the formal report and that dialogue. Some also require, though, that adjacent affected property owners may need to be

communicating with the applicants themselves because some of them are out of the control of our staff. But the earlier we have comments from affected adjoining property owners, the more able we are to try to incorporate them into the review.

MS. WAID: Yeah. I appreciate that, Mr. Zenner. I'm a little bit confused now because, once again, the -- the gentlemen, Scott and Takagi, suggested that we have a dialogue just directly. And I'm thinking that that would be more impactful since they're the ones that are designing the project rather than me to make my comments to you because I'm getting the impression that maybe you were designing the project.

MR. ZENNER: I would agree with you, Mr. Waid, in that respect, that if you want to communicate directly with the applicant and the applicant then is communicating that this is something that we're addressing as a result of an outside comment, that's wonderful if it's specific to their issues. If you're asking questions or you have questions as they relate to our City processes, those questions of review and process need to be directed to us, not to the applicant because the applicant doesn't know how we evaluate projects or how we're going to apply standards. So if there are things in their proposal that you have questions about and how that may be able to be improved, that is something that I believe you should direct directly to the applicant. And that's why I say this is a two-way street.

MR. WAID: Right.

MR. ZENNER: Some may need to come to us; some may need to go to the applicant.

MR. WAID: How about if I do them to both?

MR. ZENNER: I would love that. And I think the earlier -- if you have them, the earlier you can get them to us before the 31st, wonderful.

MR. WAID: Well, I was going to give them tonight, but I'll go back and type them up and send them later on.

MR. ZENNER: If you would. I -- we'd appreciate that greatly.

MR. WAID: All right. Well, thank you.

MS. LOE: I think that covers all the bases. Thank you, Mr. Waid, Mr. Zenner. Any additional comments? We'll close the public hearing on this. Any motions? Ms. Russell?

MS. RUSSELL: In the case of 18-115, I move to table the Cypress Creek Renewables rezoning request to August 23rd, 2018 meeting as a final request from the applicant.

MR. STANTON: Second.

MR. TOOHEY: Second.

MR. MACMANN: Second that.

MS. LOE: Second -- I'm going to say Mr. Stanton got in there first. May we have a vote, Ms. Burns.

MS. LOE: Yes.

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

**Ms. Russell, Mr. Toohey, Ms. Burns, Ms. Loe, Mr. Harder, Mr. MacMann, Mr. Stanton. Motion carries 8-0.**

MS. BURNS: Eight to zero; motion carries.

MS. LOE: Moving on to our second tabling request.

**Case No. 18-146**

**A request by Smith Lewis, LLP (agent), on behalf of NGT, Inc. (Owners), seeking annexation and assignment of M-N (Mixed-use Neighborhood) district zoning upon a 10.36-acre parcel located at the northwest corner of Scott Boulevard and South Brushwood Lake Road. This property is currently zoned A-R (Agriculture Residential) in Boone County and is undeveloped. (A request to table this item to the August 23 [sic], 2018, meeting has been received.)**

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

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

MS. LOE: Thank you. Seems pretty straightforward. Any questions of staff? Seeing none. Any comments -- public -- we don't public comment typically on tabling motions.

MR. MACMANN: I'm ready to make a motion if no one else wants to do that.

MS. LOE: We set that precedent on select projects. Motion, Mr. MacMann?

MR. MACMANN: In the matter of Case 18-146, NGT, Incorporated, permanent rezoning, I move to table to date certain 23, which is what the paperwork says, August.

MR. ZENNER: I apologize for that. The agenda does have error in it. It is August 9.

MR. MACMANN: When is date certain there, Mr. Zenner? I just want to make sure I get --

MR. ZENNER: Date certain is August 9, 2018.

MR. MACMANN: -- to 9 August 2018.

MS. RUSSELL: Second.

MS. LOE: Ms. Russell, second. Thank you. Ms. Burns, may we have a vote on that, please,

MS. BURNS: Yes.

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

MS. BURNS: Eight to zero; motion carries.

MS. LOE: Thank you. Recommendation for tabling will be forwarded.

**VI) SUBDIVISIONS**

MS. LOE: Before I ask staff for their report, I would like to ask any Commissioner who has had any ex parte prior to this meeting related to Case 18-144 to please disclose that now so we all have the same information to consider on behalf of the case in front of us. Seeing none. This is case -- I guess I should read the case first, shouldn't I?

**Case No. 18-144**

**A request by C. Stephen Heying Surveying (agent) on behalf of Horizon Steel Buildings, LLC (Owner), for approval of a three-lot final plat of R-2 (Two-Family Dwelling) zoned property, constituting a replat of Lots 11 and 12 of Renaissance Meadows - Plat 1, as well as unplatted property, to be known as Renaissance Meadows - Plat 3. The 0.84-acre subject site is located near the northwest corner of Ria Street and McKee Street, and includes property currently addressed as 4421, 4431 and 4433 Ria Street.**

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

Staff report was by Mr. Clint Smith of the Planning and Development Department. Staff recommends approval of the final plat for Renaissance Meadows - Plat 3.

MS. LOE: Thank you. Any questions of staff? Mr. MacMann?

MR. MACMANN: Just real quick. Planner Smith, you said conditional on the storm-water finalization; did I catch that?

MR. SMITH: Correct.

MR. MACMANN: All right. Thank you.

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

MR. STANTON: Does that condition need to be in the recommendation or amendment?

MR. SMITH: No, I don't think so. I think the approval would be fine. It's just procedurally, we can't move it to Council until that -- that requirement has been fulfilled.

MS. LOE: Any additional questions? Seeing none. Public comment? No.

MR. ZENNER: Up to you. You historically allow public comment. Subdivision action is an administrative act.

MS. LOE: Misleading precedent. This is a subdivision, so it's not a public hearing, but historically we have allowed public comments. So if anyone would like to come forward to the podium and provide public comment, we would welcome that information. Please state your name and address for the record.

MR. HEYING: My name is C. Stephen Heying, office at 1202 Madison Street. I am the surveyor, the representative for the owner and developer. This is a neighborhood improvement. Tore down a double-wide and an old garage that dated back over 50 years, and then reconfigured to make the existing lots a better configuration with that additional backyard from that long, narrow lot. It is actually more than three to one, which actually is not a good configuration once it's get -- becomes over three to one, so we fixed that, as well. So this is a neighborhood improvement, you know, by reconfiguration and getting rid of the double-wide, non-conforming, and a -- and a separate outbuilding garage-type building. I've been here before, September 2017. This has been heard before. There was some stuff over the needing to remove the double-wide and the garage first before we went on to City Council, and then also the storm-water, trying to figure out what part of the regulation we're supposed to conform with with storm water. And so, that's been the -- the delays for a year.

MS. LOE: I thought it looked familiar. Are there any questions for this speaker? I don't see any. Thank you, Mr. Heying. Any comments? Any motions? Mr. MacMann?

MR. MACMANN: In the matter of Case -- if there are no -- okay. In the matter of 18-144, Renaissance Meadows - Plat 3, final plat, again, Mr. Smith, no need for a conditional? All right. Thank you. I move for approval.

MS. LOE: I'll second that. Ms. Loe, second. Ms. Burns, can we have a vote.

MS. BURNS: Yes.

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

MS. BURNS: Eight to zero; motion carries.

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

## **VII) PUBLIC HEARINGS**

MS. LOE: Now we have public comment. Right?

### **Case No. 18-138**

**A request by Simon Oswald Architecture (SOA) (agent), on behalf of Schauf/Baker Partnership, (Owner), of 2504 W. Worley Street and contract purchaser of 2502 W. Worley Street, to rezone 2.08 acres from PD (Planned Development) to MC (Mixed Use- Corridor) zoning. The potential rezoning would remove Lots 4A (2502 W. Worley) and 4B (2504 W. Worley) of the Administrative plat of Centre West Office & Storage Park from the Centre W. Office and Storage Park C-P Plan.**

MS. LOE: Before I ask staff for the report, I would like to ask any Commissioner who has had any ex parte prior to this meeting related to Case 18-138 to please disclose that now so we all have the same information to consider on behalf of this case. Seeing none. Staff, may we have a report, please.

Staff report was given by Ms. Rachel Bacon of the Planning and Development Department. Staff recommends approval of the requested rezoning of 2502 and 2504 West Worley from PD to M-C.

MS. LOE: Thank you. Are there any questions for staff on this? Seeing none. We'll open this up to public comment.

### **PUBLIC HEARING OPENED**

MS. LOE: Is there anyone that would like to come forward and speak on this project? Please give us your name and address for the record.

MS. STOLWYK: Adrienne Stolwyk with Simon Oswald Architecture, which is at 2801 Woodard Drive. Just saying that I'm here representing Dr. Schauf and Mr. Baker who are present, as well as the civil engineer, Cody Darr, if you have any questions. I was going to add -- I believe it's in the -- all of the materials, the owners of the property did approach their neighbors individually because nobody showed up to the public information sessions and they did collect signatures of people who were in favor or neutral to

the change in zoning, so that's available in the --

MS. BACON: It's in the agenda packet. Uh-huh.

MS. STOLWYK: Yeah. Okay. Thanks.

MS. LOE: Are there any questions? I don't see any. Thank you.

#### **PUBLIC HEARING CLOSED**

MS. LOE: Any comments? Mr. MacMann. If there are no comments, in the matter of Case 18-138, Centre West Office & Storage, Lot 4A and 4B rezoning to MC from PD, I move for approval.

MR. STANTON: Second.

MS. LOE: Mr. Stanton, second. Ms. Burns, may we have a vote, please.

MS. BURNS: Yes.

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

MS. BURNS: Eight to zero; motion carries.

MS. LOE: Thank you. Recommendation for approval will be forwarded to City Council. That concludes all our cases for the evening.

#### **VIII) PUBLIC COMMENTS**

MS. LOE: Are there any comments of the public? Seeing none.

#### **IX) STAFF COMMENTS**

MS. LOE: Are there any comments of staff?

MR. ZENNER: You can't get away without me talking.

MS. LOE: I know.

MR. MACMANN: I believe Madam Chair said seeing none, did you not. I believe procedure requires that we move on, does it not?

MR. ZENNER: So, she's so open to hearing me talk more. Your next meeting is August 9th. We do have a couple of items though they have gotten reduced since earlier this week. We had two items that were going to be returning to us from a long-term tabling. Those were the regulating plan amendments relating to an alley vacation and dedication on the west side of Providence. Both of those have been withdrawn. Due to the fact that they have actually been shown on a date certain agenda, they will appear on your next Planning Commission agenda as withdrawn items, and that is for information only. There is no need to have a vote on those, but, technically, they do have to show on the agenda because they were previously advertised and then tabled to the August 9th meeting. The only other item that you will have on your agenda is the tabled item for the NGT, Brushwood Lake annexation and permanent zoning request, so it will be a relatively shorter meeting than this evening. Just so we can orient ourselves with the alleys, there are alley -- our former alley vacation and then dedication standard requests that were going to amend the MDT, but have been withdrawn. And then, again, the Brushwood Lake property.

That is all we have for this evening. Thank you very much for your attention and your time, and if you have any questions of staff, we'll be more than happy to answer them.

MS. LOE: Thank you, Mr. Zenner.

**X) COMMISSION COMMENTS**

MS. LOE: Any comments of the Commission? Ms. Russell.

**XI) ADJOURNMENT**

MS. RUSSELL: I move to adjourn.

MR. MACMANN: I'll second that.

MS. LOE: Thank you. We are adjourned.

(The meeting adjourned at 8:07 p.m.)

(Off the record.)