

EXCERPTS

PLANNING AND ZONING COMMISSION MEETING

COLUMBIA CITY HALL COUNCIL CHAMBER

701 EAST BROADWAY, COLUMBIA, MO

AUGUST 23, 2018

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 property located on the south side of I-70 Drive SE, approximately 2000 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 and a development plan, to allow for the installation of a privately owned and operated 10MW solar energy facility.

MR. STRODTMAN: Case 18-115, A request by Cypress Creek Renewables, LLC on behalf of Dunlop Development, LLC seeking to rezone a 93.85-acre property located on the south side of I-70 Drive Southeast, approximately 2000 feet east of St. Charles Road. The property's currently zoned A, which is agricultural district, and the applicant is requesting approval of PD, the planned district, zoning and a development plan, to allow installation of a privately owned and operated 10 megawatt solar energy facility. May we have a staff report, please?

MR. PALMER: Yes, thank you, Mr. Chairman. As you said, the location of the project is south of I-70 Drive Southeast, and it's actually located between the Route Z and the St. Charles Road exit. The applicants are requesting to rezone the 93.85 acres west of the creek, which kind of remain out here on this plan, it will become a little more noticeable later, but it kind of runs through this corridor where the vegetation is. So the request is to rezone to a planned district, and they're also requesting approval of their development plan. So we actually re-advertised this after our previous tabling request because it surpassed two months since the original application date. So these dates are from the most recent public info meeting on July 31st. 29 postcards were mailed, and we then published notice on August 7th and also sent property owner notice on the 7th and the same 29 were mailed at that time. So a little bit of background information. The request is actually result of a city request for proposals. The applicants were the winning bidders for a solar farm project in order to bolster the city's renewable energy sources. They have entered into a power purchase agreement with the city Water & Light department, and part of the connection will actually require an extension of two feeder lines between this property and the -- I'm sorry, what was the name of that substation?

MR. ZENNER: Rebel Hill.

MR. PALMER: -- Rebel Hill substation that was built a few years back. So part of the initial process, the city legal department determined that the project is not a public utility. The question there is there are different standards in the UDC for public utilities and private utilities. So that will play in in just a

moment. So now on to land-use considerations, the site is located within the neighborhood district in the comprehensive plan, and it has green space and -- or I'm sorry, open space and green belt designation along the stream corridor. So it typically wouldn't be considered consistent with that land-use category in the comprehensive plan. However, PDs are intended to allow a mix of uses when there are adverse impacts to neighboring properties, and when those adverse impacts are stream and buffered from those neighboring properties. So just for some context, this is a city zoning map. I've got the site outlined in red. You can see MC to the immediate northwest, the striped area just south of that is PD, which is commercial in nature also. The -- going further south, you have R-2 and R-1. This parcel to the south, the adjacent piece here is zoned RS, which is in the county. The remainder of it is also zoned agriculturally. Then again, I believe of course this is zoned A to the east, which is the remainder of the Dunlop property, and then further is I believe Ag also in the county. So as far as zoning is concerned, the solar farm use actually requires industrial zoning, but as a way of kind of limiting the uses that could potentially be placed on this site, staff suggested use of a planned district. And that is a way of basically protecting the neighboring property owners from some kind of odious use coming in and taking the place of this project, if this were to fizzle out at some point. You know, basically having open industrial zoning would allow a number of uses that are not favorable for those property owners. So the PD in this application is deemed appropriate by staff, and the statement of intent and design parameters establish use limitations as well as site design considerations. So the statement of intent basically indicates that a solar farm use, single-family, and multi-family, and I believe two-family also uses are permitted. However, the PD plan will dictate that further so they are submitting a PD plan with a solar farm on it so in the future, if they do want to build multi-family or even single-family homes, that would be a major amendment to the PD plan, and it would come back through the same public process. So the design parameters, they go a little further and they indicate, you know, there's a 25-foot parameter setback for all the uses on the site. They limit the number of solar panels and their heights, so there's 48,000 max solar panels, and they are 12-foot tall. They've indicated they are not going to use any light poles, which typically cause concern for neighbors for light pollution and spillover. They also indicate just 64-square feet of signage with a 12-foot max height, with up to one wall and one free standing sign, which is typical, I believe, of collector roadways for a commercial use. So as I said, the statement of intent indicates that they can -- that the permitted use would be some type of residential use. However, it doesn't limit it with density. But as I said, again, the PD process actually requires that a full PD plan be adopted at the time of the use change because they -- they basically limit their use to the solar farm by having the development plan approved in its current form. So this is their development plan. It's kind of zoomed in to the site, just to give you an idea. Probably fairly difficult to read, but as you can imagine, the bulk of the site's covered with the solar panels. They have done their best to maintain existing vegetation, at least in those areas that is prominent, along the stream corridor, along the eastern property boundary, and then also along the drainage channels that you see cutting through the solar panels to the north there. Again, they've provided a 25-foot setback on all sides, and then on the south side, there's some additional setback,

which I believe I'll get to in just a second. In terms of tree preservation, because the PD plan acts as the preliminary plat for this property, it is required to -- they were required to submit preliminary tree preservation plan. It is included in their PD plan as a separate sheet, so if you're looking at the map here, the hatched areas that are on the subject property are climax forest. The double-hatched area towards the south central portion of the site there, that is their designated tree preservation area, and then the orange trees located on the map scattered around are significant trees that will be removed, and then the green and the kind of north central area there, those are all -- that's -- that is their 25 percent significant tree preservation. So they are required by code to maintain 25 percent of existing climax forest on their site, as well as 25 percent of all significant trees. So the green circles indicate the tree -- the significant trees that will remain, and then the double-hatched area is the tree preservation plan area -- or tree preservation area. So one other thing that will actually be part of the platting process, but it has to be kind of accommodated for on the PD plan is dedication of road rights-of-way. This property is located between two proposed, I believe, major collector roadways. One will be off to the east of the property line of the Dunlop property, the greater Dunlop property, if you will, and then the other is actually along the west property line and is located on this subject site. So if you look closely, you can see there is a right-of-way line located here. It goes the length of the property. That is an area denoted for dedication at time of final plat. So there will be sufficient road right-of-way there for a major collector, which was on the CATSO plan, so it was required of them. As a part of the PD process, the applicants are allowed to ask for certain waivers from aspects of the code. One aspect they are asking for a waiver from are the parking requirements. The solar farm use has little-to-no traffic. It has basically a maintenance worker and one vehicle that would make a couple of trips a month, maybe. And then the parking requirement in the code is actually based on gross floor area for industrial uses. It would be one space for every thousand square feet of gross floor area. And as a matter of definition, there is no gross floor area on the site, just based on the definition of that, I guess in the code. So no buildings onsite and access drives are provided across the site, so I believe, you know, maneuvering and parking is accounted for along those access drives. So I believe that the waiver in this instance is -- is probably permissible. Another waiver they are seeking is from screening requirements. Any location on the property adjacent to a residentially zoned district would be required a Level 3 screen, which is the highest level. The only location on this site that is adjacent is along the south edge with this residentially zoned property here. Because the road right-of-way is between these houses and the subject site, they're not considered to be adjacent in that location, so it would be a lesser -- I believe it would be -- is there still screening requirements? Yeah, there are potentially other screening requirements there. I believe I've addressed that, but I seem to have a blank in my head on that right now. But anyway, so along the south edge, they would be required a ten-foot wide landscape strip, and then they're -- they would also be required an eight-foot tall screening device that would have to be located on the property line, and the landscape strip would be on their side on their property, according to the code. So as an alternative, they have provided an eight-foot tall screening device at a 75-foot setback on the south side. That way, they can preserve the existing vegetation, which

doesn't appear to be much, but there's a fair amount of significant trees -- or, you know, mature trees, at least, along that property line. So they propose to move their -- their -- their fence, essentially. They are using a wooden privacy fence in that location, and they intend to pull that back to 75-foot setback to, one, to save the mature trees in that location, and then also, it horizontally separates the solar farm from any potential development on the property to the south. And same is true for the west side of the property. The road right-of-way acts as a horizontal separation. I believe it's 60 feet of separation from the original property line to the new property line, and then also they have the 25-foot setback, and then they are proposing an eight-foot tall screening device, which would be a wooden privacy fence in that location. And again, that's at the 25-foot setback line. One final waiver is for the requirement for street trees. The code requires street trees along all road frontages at 40-foot intervals. The roadway on the north, I-70 Drive Southeast, is a total of about 2600 feet of roadway frontage, which would amount to about 65 trees. They are requesting the waiver from that requirement. Normally, the -- the other aspect is the west side, again, they are offering a road right-of-way and then typically, street trees in those locations will be considered part of the construction of the roadway because roadway construction will actually do damage to any trees planted beforehand, so basically, the city traffic division has stated that they don't expect the applicants to construct the roadway, and so therefore, they would take responsibility for sidewalks and street trees in that location as well. It would all be part of that street construction project in the future. Another thing I kind of skipped I noticed here, the reason for the street tree waiver request was because initial contract negotiations, as I stated, this is all kind of the culmination of an RFP process through the city. Contract negotiations were had, and then the applicant applied for the rezoning based on the legal determination that they are not a public utility. Their contract negotiations were under the assumption that they would be considered a public utility, and so therefore, the installation of the street trees required would be cost prohibitive for them, so that's the reason for the request. So on to our recommendation. I believe staff actually is supportive of the project because of its uniquely low impact for an industrial use. The screening and buffering requirements for the industrial use were likely considered far much more obnoxious uses, such as, you know -- I can't think of an industrial use off the top of my head. Factories, smelting plants, quarries, so on and so forth, which is not what this project is, obviously. Alternative design that they propose utilize existing trees and move the solar farm functions further from neighboring uses, again trying to limit those negative and adverse impacts. So staff's recommendation would be for approval of the rezoning and approval of the development plan as proposed. I believe that is all.

MR. STRODTMAN: Thank you, sir. Any question -- Commissioners, any question from staff?
Mr. MacMANN?

MR. MacMANN: Thank you, Mr. Chairman. Planning & Power, I have a question for you, and I'll ask the gentlemen who owns this project, but from a PD perspective, it appears that they are limited to 12-foot high and 48,000 units. Did I understand that correctly?

MR. PALMER: Yes.

MR. MacMANN: Can you explain to me the process of their technology changes and they have

to change those parameters?

MR. PALMER: Basically, if they would, let's say that technology allows them to use smaller solar panels --

MR. MacMANN: Or taller.

MR. PALMER: So anything above and beyond that threshold would have to come back through the public process that we're going through now. The height, I believe, would still be considered a major amendment and would go through the public process all over again. And I do know that the additional solar panels above the 48,000 threshold would require it. So they would have to basically restart the rezoning process.

MR. MacMANN: As an amendment to the PD; right?

MR. PALMER: It would be a major amendment, so it's the same as the process they're using now.

MR. ZENNER: To further add, I think just for clarification, if in fact they were to consolidate, so we're doing 48,000 panels right now, technology comes to where they may be able to build a super cell, super solar cell and they're able to reduce the 48,000 to some smaller number, generally when we go down, when you reduce anything from the maximums that are established, that's a minor amendment internally. Now, there's a -- there's discretion associated with our code as written as to what does constitute or what the director has authorization to consider a minor. The director is not obligated that even if they are reducing impact to consider it a minor. So if panel size increased by fourfold, and reduced the total number, that would be something at the discretion of the director, if he felt that was significant enough, it could come back through the process as a major amendment, even though it is under the maximum parameters. The other issue associated with that, with any minor amendment that we end up doing, it is circulated internally as a part of our regular internal review process. Stormwater considerations associated with this project have gone through a quite significant vetting process with our own internal stormwater staff in order to be comfortable that this particular project is not adversely impacting stormwater runoff. So I think any types of changes that may consolidate or expand the facility in height, width, or whatever other dimensional standard we have, is going to be something that's going to be viewed significantly, reviewed significantly to ensure that it is not creating an impact that was not intended or contemplated as we are considering this proposal right now. The one thing Mr. Palmer did not point out is the site, short of the tree preservation area, is -- currently is agricultural in nature, it's a field. It will be entirely disturbed through a legal land disturbance process, and it will be reestablished. The reestablishment of this particular site, actually, in order to do what our stormwater requirements, the entire site is a stormwater BMP. We will have actually a separate BMP agreement that is coordinated with our utilities department to ensure that the runoff that's generated from these panels is adequately addressed as it comes off the panels and on the existing site, so that the flow coming off of the property is no greater after it is developed than it is today, which is a tenant of our stormwater ordinance. The impact that the improved site creates can't be more significant. So there may be BMP efforts made along the

southern property line, which is where generally this project drain's stored, but the entire area underneath the panels is actually a massive BMP and will be receded and will become the collection point for the water that comes off of them. There was very lengthy discussion with our stormwater staff, and as part of what resulted in part of the delays, if you recall correctly. We were trying to get our arms wrapped around BMP and stormwater impacts to where we as a city staff were comfortable that it was not creating anything adverse. So with that, we do have representatives from -- or representative here this evening from Water & Light, if you have any specific questions as it relates to any of the Water & Light aspects. Brian Williams, our assistant utilities director, is here this evening. Otherwise, we'd be happy to answer any additional questions you have.

MR. STRODTMAN: Thank you, Mr. Zenner.

Commissioners. Yes, sir, Mr. Toohey.

MR. TOOHEY: Can you go back to your previous slide about the buffering? And so did I see somewhere that essentially you guys were okay with reducing the buffering standards because something about they didn't budget for that buffering; is that correct?

MR. PALMER: No, that's actually unfollowing. The reason they are asking from the waiver from the street tree requirement is because of the initial contract negotiations they made with Water & Light were not taking into account the fact that they would need to plant these street trees because they were thinking they would be considered a public utility and none of those requirements would be in place at that point. But because legal made the determination after the contract negotiations that they were not a public utility, they were a private utility, then that kicked in the need for the rezoning and the requirements from the UDC.

MR. TOOHEY: Okay.

MR. STRODTMAN: Any additional questions, Commissioners? Then before I open it up for public hearing, we at the public hearing would like to limit it to three minutes per speaker. If there's a large group from the applicant's side, we would ask to try to keep it to different topics for each of the speakers so we don't hear the same thing over and over. And then we'll go from there. Also, we'd like to have your name and address before you start speaking with us just for formality, and we will go from there. So we'll go ahead and open it up for public hearing. So if anyone would like to come forward and start us off.

MR. NOVACK: So I'll start us off. My name is Scott Novack, that's N-o-v-a-c-k. I am a project developer with Cypress Creek Renewables. So we are the applicant. I am at 18 South Michigan Avenue, Chicago, Illinois 60603. Rusty did a wonderful job, a very detailed job of going through our application and through his report, and that report contained a lot of high-level and kind of more zoomed-in detail about our project. Given the limited time, I'm not going to spend time rehashing anything that Rusty covered. I did want to introduce myself, check off that, but I also wanted to talk about the team that I've brought with, who will all be available to answer questions. So we've got Mike Caruso, he's a licensed professional engineer in Missouri, he's a civil engineer, so he'll be available to answer questions

when we get to any land development issues, whether it be drainage or anything else related to the land. We've got Drew Lines -- Andrew Lines, he's with CohnReznick. He's a MAI certified general appraiser, and he'll be able to answer questions as they relate to property values, impact of property values. We also have Lowell Pearson, who's an office managing partner at Husch Blackwell, he's an attorney. So we have a number of folks here that hopefully any questions that come up from the public, that come up from your commission as we go through the evening, we'll be happy to address. I did just want to say a few words about -- is that time already?

MR. STODTMAN: No.

MR. NOVACK: Okay. Just really quick, Rusty mentioned it, but you know, in most jurisdictions, we are a special use or an allowable use in an Ag district, and I think that that's really relevant and pertinent and worth exploring just in that solar -- I know that the term "industrial" was used. We certainly don't view it as industrial development. There's no traffic to speak of. Everything's below 12 feet. There's no harmful noise -- there's really no noise that spills over the property line at all. So it's a really low-impact use that's compatible with really any other land use that you can think of, whether it be residential, agricultural, you know, street frontage on a highway. So we really feel great about solar, that's why we develop it all over the country. But in particular, we've had success because we are committed to being a part of a community and fitting in. And so I just wanted to say those brief words, and again, let you know that we're available to answer your questions. Thank you.

MR. STRODTMAN: Thank you. Commissioners, any questions for this speaker?

Mr. MacMann?

MR. MacMANN: Thank you, Mr. Chairman. How long have you-all been doing this, sir?

MR. NOVACK: So Cypress Creek was founded in 2014, but it was founded by a number of people who have over 10, 20 years' experience in the business.

MR. MacMANN: And how many facilities do you guys manage?

MR. NOVACK: We manage about 230 facilities all over the country. I'll just really quickly advance, so we did have this, just in case we had a little bit more time, but I'll show you just where -- where it is we are active. So we're a national company. We're a developer, builder, and owner-operator of solar farms. So we're operating about 230 solar farms currently. We've successfully developed over 2.2 gigawatts. We actually had that figure at the end of last year, and we've got a development pipeline that's about three to four times larger our existing operating assets, so.

MR. MacMANN: The point, awesome. Thank you.

MR. NOVACK: I just wanted to give you a closed scale, a little bit.

MR. MacMANN: And I appreciate that, but we're taking everyone else's time. Any serious problems today? Neighbors, laws, EPA, equivalent DNRs, court, things like that?

MR. NOVACK: We've really been well received. There's questions on the front end, particularly in areas that are not familiar with solar. And I know that's not exactly the case here in Columbia. I know there's some existing small solar installations. But generally, in parts of the country, and this is very

common where there isn't solar, there's a lot of questions on the front end, and there's a lot of misconceptions. So our job is to educate and just make sure people know what it is we're proposing. But we've been really, really well received across the country.

MR. MacMANN: I'm good for the moment. Thank you, sir.

MR. STRODTMAN: Any additional questions?

MS. RUSHING: I had a couple. It shows on your first picture just this land is covered with solar panels.

MR. NOVACK: Right.

MS. RUSHING: Do those panels -- my first question is: Do those panels emit any energy at all?

MR. NOVACK: Like radiation, or any heat?

MS. RUSHING: Yeah, not -- I assume they're going to send energy off through power lines.

MR. NOVACK: That's correct.

MS. RUSHING: But any emission other than that?

MR. NOVACK: No, so they're designed to absorb as much sunlight as possible, and they're treated with an antireflective coating so that they do just that. So there's no radiation or increased temperature off of the solar farm as a result.

MS. RUSHING: Okay. And it also appears that the energy lines will be below ground?

MR. NOVACK: Right.

MS. RUSHING: Okay.

MR. NOVACK: So they go from the -- the modules themselves underground to convertor and transformer equipment, and then continuing underground to the point of interconnection.

MR. STRODTMAN: Ms. Burns?

MS. BURNS: I might be getting ahead in your slide show, but do you have a slide that shows a panel field that would be close to the size that we're talking about in this proposition?

MR. NOVACK: I have a few slides. One, this is a tracking system, so single-axis tracking means the modules rotate on one axis. This picture's taken midday when the sun's overhead so it can collect the most sunlight. So this is kind of zoomed in, we can't see the scale of this project. I've got another picture a little later on. This is a five-megawatt project that we developed in Indiana, so this is about half the size. So it will give a pretty good idea. And actually, this is another one, same scale, different project also in Indiana, just to give you an idea. And these are nice pictures for you because you've got the birds-eye on the left and you've got when you are on the ground looking at it.

MS. BURNS: Thank you.

MR. NOVACK: Sure.

MR. STRODTMAN: Additional questions, Commissioners?

MR. TOOHEY: So going back to this tree buffering. So your budget is so tight on this, you guys can't afford 65 trees?

MR. NOVACK: It's a really tight budget.

MR. TOOHEY: That is really tight. Because you know what a tree costs; right?

MR. NOVACK: I've heard different estimates.

MR. TOOHEY: I mean, wouldn't cost you any more than, you know, really, you can look at \$6- to \$10,000. So you guys are that tight, on a project this big, from a company this big?

MR. NOVACK: Right, right. So that -- it's a very good question. So the variance request was as a result of a tight budget across kind of that buffer requirement, which also as Rusty mentioned was on the inside of the fence, which is something that we didn't deem appropriate in addition to being a cost adder. And then as for the street trees, the idea there was the same thing. We don't -- we feel like solar farms should be accelerated. Obviously we're biased, you know, we're in the solar industry, but we like the ability for people, whether it be vehicles or pedestrians walking by to be able to look in to a solar farm. So between that and the added cost, there's also a maintenance component to street trees. It -- you know, quite honestly, it's a very tight. We didn't think we were going through this whole process, as Rusty said. And this process itself, you know, with the team I've assembled and the iterations of the plan, it's just a costly project -- a costly process that we had not budgeted, so it kind of added up.

MR. STRODTMAN: Any additional questions, Commissioners?

MR. MacMANN: May I follow-up on that?

MR. STRODTMAN: Sure, Mr. MacMann.

MR. MacMANN: Thank you very much. If I understood staff correctly, you guys thought you would be part of a public utility, and now you're a private entity vendor supplier; right?

MR. NOVACK: Right, we thought that's how it would be interpreted.

MR. MacMANN: And when that transitioned out of the public utility sphere that was during the contract negotiations; correct?

MR. NOVACK: As -- so I wasn't wholly integrated into the whole process, but as I understand, it was after the negotiation process and after the power purchase agreement was --

MR. MacMANN: So the RFP had been accepted or was in the process of being accepted, and then after, additional expenses came forward? Just to let you know, we've gone through a very rigorous process the last couple years with screening, buffering, stormwater, noise and light pollution, and that's why we're very sticklers on these questions. That's all the questions I have for him at this point. Thank you, Mr. Novack.

MR. NOVACK: Thank you.

MR. STRODTMAN: Any further questions, Commissioners? Just another before the next speaker, there's a little red light on the podium. You might see that blinking. If you see that while you're speaking, you've gone past your three minutes. I forgot to say that earlier. But we welcome the next speaker as soon as Mr. Novack is done here. Anyone else to come forward? Anyone else from the crowd in general? Anyone who's here tonight is welcome to come forward or I'll close the public hearing if no one else wants to come forward.

MR. WAID: My name is Tim Waid. I reside at 2104 Bluff Point Drive, Columbia, Missouri. So I

own the 109-acre parcel to the south of this planned development. And the main concern, I think probably my comments were captured maybe in the notice that you-all had. So the original submission was pretty inadequate and didn't really explain many things at all. And if that was the presentation, I'm not really sure I heard anything that has changed my mind on clarity. I don't know if you all are clear on what you're passing tonight. I'm not necessarily. So I was hoping maybe we might hear a little bit more. I'm not convinced that science has told me that the impervious versus pervious surface of this development, these solar panels is -- science is there to tell us that we're not going to have some health issues. I understand that the staff and city have put together a strong stormwater BMP, which basically requires someone like myself who lives on the south side, or has property on the south side of this lower elevation, but it will be in the drainage collection area for this project. I contact the city, the city comes out, takes readings, and then asks the applicant to make amends or change things or do whatever's necessary to remedy the problem. So the city is allowing themselves to be, I suppose, captive to being the stormwater runoff cops, and then collecting some of the expenses of whatever it takes to fix the problem from the applicant through property taxes. And the property taxes are not being paid by the developer who owns the land, but the applicant who has assumed that responsibility and their project operation. That's a pretty sort of roundabout way. The city is absorbing a lot of liability in this undertaking. They've negotiated a contract in poor, if not bad faith, in my opinion by offering the applicant the idea that they're going to give them an opportunity to bid on an industrial project in an agricultural area, which they've done, and have great experience doing, and they usually do this in their own farmland and no one's going to see it. Well, this is the middle of the major growth area of the City of Columbia. The northeast is, that's where the city's happening. 25 years, where we're going here. 25 years from now. Someone's going to say, hey, what happened back in 2018 when the city of Columbia entered into this 25-year grant? Oh, well, they told me it was going to be an industrial project, so they didn't do a lot of these things, and got into a cost agreement, and anyway, I think the city is presented a concept that the applicant met, but then the city decided to change how it was going to define zoning and how the project needed to be presented, and the applicant was trapped into the cost structure that they currently have. And so they're cutting some costs here and there. And so I'm going to end up paying for those costs, as someone who's a major constituent or staple during this project, because my land is going to be where all the stormwater runoff collects, and I'm looking into the solar panels without buffering or screening or this and that. So there's a little bit something needs to be revised here, and I'll sit down here in a moment and give the applicant another chance to present the project maybe with more clarity. I'd like to see a little bit more science about stormwater runoff. I understand the city's and staff is telling me that they've decided that they'll absorb the responsibility for how that stormwater's going to never go beyond what it was before the project was put in, but you understand we're talking about adverse impact when they clear the land and put the panels up and grass is gone and there's nothing but mud and dirt there, there's going to be a lot of issues before that grass grows back. So be forewarned what you're getting into, what you pass along, what the city council's going to be absorbing, and then 25 years from now, someone's going

to be asking how did this come about.

MR. STRODTMAN: I had to cut you off, Mr. Waid, but I've given you two minutes past.

MR. WAID: I'm done. I'm just giving you some concerns. In general, I like a lot of things. I think we can dot the I's and across the T's, and I understand we're on a time constraint because we've signed a contract because we signed a contract and the city needs to get to a quota of 15 percent renewable energy. All these things are sort of, like, dangerous, I think, motivators.

MR. STRODTMAN: Thanks.

MR. WAID: So caution, please.

MR. STRODTMAN: Thank you, sir. Commissioners, any questions for this speaker?

Yes, Mr. Stanton?

MR. STANTON: The I's and T's need to be crossed from your perspective? What makes this a win-win? I'm going to go ahead and get this started. What's going to make this a win-win, make everybody happy, give us renewable energy, make you happy as a landowner, what things from your perspective need to happen?

MR. WAID: Well, I would think that the applicant should be held to account and standard on Level 3 screening and buffering according to code and planned development. Let's do planned development right. It's the middle of a residential. It's not the middle of agricultural areas, so let's keep the buffering requirement there. That's going to add some costs to the applicant. Maybe the city will come back and say, you know what, since we revised that contract, so we absorb that cost because we kind of pitched something that wasn't quite accurate in the first place. So maybe that's a conditional pass tonight where you say, the applicant's going to be held to a standard that the Planning & Zoning, we said we were going to hold these standards high, let's hold the applicant to it, and then let's ask the city council to renegotiate that contract to absorb those costs because they kind of sold the applicants something that the applicants thought they weren't getting. So let's do that with screen buffering, let's not waive that. I think the city should be concerned about putting in a little bit more prevention on the southern boundary there where all the stormwater's going to be coming into that. I'm sure some of these other neighbors who live to the westbound are going to be talking about stormwater runoff. There's a lot of small creek tributaries that go into the Stone Creek there. There's a lot of water that collects on that area. I asked the applicant, as you can see in the notes, for some sort of a -- as a way to prevent water from seeping onto my property from the north. And I don't think they felt that they needed to do that because they believe that they're not going to have an issue. But I haven't heard anything about the science on where this stormwater is coming from. So I would like to see a swale, a drainage prevention creek along the southern boundary of the Dunlop property, and I outlined that in my notes, and I'd like to see that put in. And that's -- those two things are essentially what I believe that we need to do.

MR. STRODTMAN: Thank you, Mr. Waid. Any additional questions, Mr. Stanton?

Commissioners, any additional questions for Mr. Waid? I see none. Thank you, sir. Thank you for coming this evening, and the other evenings. Anyone else come forward this evening before I close the

public hearing? Everybody good? Go ahead and close the public hearing. Commissioners, discussion? Questions for staff? Additional information needed? Mr. Stanton?

MR. STANTON: I don't want to beat up on the applicant, but being well-versed in the development world myself, if I were to be putting a project together, would I not know the buffering requirements and then bid that and then fight for the variance after and have that number already in my numbers?

MR. STRODTMAN: Yes, you could look at it that way. I think it was, you know, this applicant obviously was under the impression that they were going to be -- it was going to be handled differently than it is, and so I assume the costs of these meetings and the buffering and all that was not included. I think Mr. Waid, the earlier speaker, had a good alternative, is if we believe that that is a strong point, then maybe we can give them some ideas or suggestions that maybe the city can accommodate those trees in some fashion or help them accommodate those trees. That's their problem, not ours, but yeah. It sounds like that was not much of the thought process at the beginning of it and then afterwards, it kind of caught up with them and it snowballed, and there's additional costs, not just the trees. I think if it was just the trees, my assumption is the whole process, not just the trees themselves, but everything that we're doing this evening, and all the evenings before.

Mr. MacMann?

MR. MacMANN: I have some follow-up thoughts on that. I don't want to hold the applicant responsible for our -- us changing our mind. That said, I'd like to -- usually when the city has something that comes before us -- by the way, our city comes and we do this process, too, and the reason I bring that up is we try to -- try to obey our own laws, even though we don't have to. That they would have been waived up front, or if this had been a Water & Light situation, straight up front, they would have tried as soon as possible to meet all of our requirements. And I would hope that in the future when we're negotiating things like that, we would communicate that to everyone to put in the RFP. I don't know all the details on what had been changed from public to a private entity, but I can respect this applicant's concern. They had a signed contract and things -- it appears to me as if they had a signed contract and then things changed. To respond to Mr. Toohey, I would like to see all -- you know me, I'd like to see all those buffers and all those trees. But that process -- I'm not happy with the process, I guess is what I'm trying to say here.

MR. STRODTMAN: Mrs. Burns?

MS. BURNS: While I understand what Mr. MacMann's saying, I think that there's a reason why we have Planning & Zoning here, and in order to make this a better project, it isn't out in the middle of farmland, it is in a developed area, and I think the buffering is very important. So I guess I would be in favor of this project if we went back to the buffering that was required and not the variance for the buffering.

MR. STRODTMAN: Can I ask a clarification by Mr. Palmer? Help me understand, is there two different components to the buffering? Is it the buffering around the residential and then the street trees,

two different topics; correct?

MR. PALMER: Yeah, there's actually three different components, if you will. There are street trees that are required along any street frontage of a new development of any kind at 40-foot intervals.

MR. STRODTMAN: So in this case -- keep it simple for me, in this case, can you tell me on this drawing where that would be along?

MR. PALMER: So they are required along I-70 Drive Southeast.

MR. STRODTMAN: And in the future.

MR. PALMER: And then in the future, they are required along that roadway along the west side. But as I stated, the traffic division indicated that they are -- they're not ready for that roadway to be built, essentially, and so the city has taken that responsibility in the future, and as such, we'll take responsibility to those street trees because they need to be planted after the street is in place.

MR. STRODTMAN: And how wide is the street?

MR. PALMER: The right-of-way is 60 feet.

MR. STRODTMAN: So there would be a 60-foot buffer along --

MR. PALMER: There's a horizontal separation buffer, if you will, there, of at least 60 feet, plus the 25-foot setback that they've imposed on themselves, which would typically be -- I've only shown one slide; right? It would be the front setback and the rear setback.

MR. ZENNER: Southern boundary and then you have the west.

MR. PALMER: Right, right. But the -- I was talking about the setback. They would typically be required a front yard of 25 feet and a rear yard of 25 feet, and then a side yard would be 10, I believe.

MR. ZENNER: Yeah.

MR. PALMER: So they're offering additional buffer space without the landscaping, and then they are offering the required privacy fence, and they are using a privacy fence along those frontages. They are using more chain-link-style fence elsewhere, but along those frontages where there are existing homes and also potential residential developments, so along that southwest corner on both sides, they are -- they are proposing a wooden privacy fence, and then again, they're pushing the privacy fence back on the south side an additional 50 feet in order to maintain the existing trees. Because basically, if they install the required screening and buffering aspects, they would have to dig out all those trees, put the fence on the property line, and then the screening -- the landscape buffer, I'm sorry, would then be inside the screening device on their property. That's how the code is written in that respect.

MR. STRODTMAN: Mr. Toohey?

MR. TOOHEY: So just as a clarifying question with this, so the city would only be adding trees later on on the west side, but not along the I-70 side to the north; correct?

MR. PALMER: Correct. That's -- that was the discussion we had about it. The -- in the instance that some point in the distant future the city decides to redevelop what's actually a MoDOT roadway along the outer road, so it would be MoDOT that would be asked for those street trees, they may or may not comply with that, they don't have to. The -- if the city, for some reason, were to redevelop it, they would

potentially try to plant them at that time.

MR. TOOHEY: And then with the wood fence, you've got a shelf life, 10, 15 years on a wood fence. So who's responsible for the maintenance of that, and then who would -- who would have to -- would they have to replace it at some point? Would that be a city responsibility?

MR. PALMER: The applicant's responsibility.

MR. STRODTMAN: It would be the applicant's just like any other fence. Whoever owns the land and the fence, their responsibility.

MR. TOOHEY: I guess my concern of the project is for the last 20 years, at least, there have been conversations about having, you know, beautification ideas along I-70, and I don't think a solar farm is, you know, as beautiful as apparently the applicant thinks. Those are my two cents with this.

MR. STRODTMAN: Additional discussion, Commissioners? Mr. Harder?

MR. HARDER: Yeah, I noticed in just a few of the slides, it seemed like they were pretty rural and agricultural areas. It is kind of an area of Columbia that I think we're going to see more growth without buffers. I think that's kind of missing some buffering.

MR. STRODTMAN: Mr. Stanton?

MR. STANTON: This project, as the city, we're bumping heads. We want renewable energy, we're trying to be clean, we're trying to be a greener community, which is definitely Columbia, but we don't want to look at it. I kind of agree, I think solar panels are pretty sexy. You know, and it shows our progressiveness as a community. My concern is the trees effecting the total wattage that's produced and blah, blah, blah, and the contract we had with the city to produce that amount of electricity, and why wasn't that argument made? I mean, kind of.

MR. MacMANN: Just to respond to Anthony thinking win-win, you know you do. Sorry. Inside joke there. I was thinking about that, this is a northern exposure for the amount of land that they're going to draw there as well, and I was with you when I looked at these -- you know, your line of thinking there when I looked at this. I was thinking if we do have any tree screening, we're going to have to be very cognizant because of what they do, how close they get, how close to the panels they are. Obviously, that analysis is in everyone's mind, but it doesn't seem like it's really been done. I would like to see the trees there. I would. I wish Mr. Griggs was sitting right here, we would get a win-win through that way because all over time, they're going to need this out there. They aren't going to need buffering. But I'm not sure -- I'm hesitant to extract monies from the applicant at this juncture when I don't really consider it their fault. I don't like it, Mr. Toohey. I do not like where it's gone, but...

MR. STRODTMAN: Mr. Toohey?

MR. TOOHEY: If we had another applicant come up to us, a private applicant and say, I didn't budget for trees for the buffer, there's no way we would approve it. I don't see why this would be any different.

MR. MacMANN: The only caveat -- to respond, if I may.

MR. STRODTMAN: Permission.

MR. MacMANN: Is that they already had a contract with the city that wasn't going to require that type of thing.

MR. TOOHEY: We do the same thing when someone goes and buys a piece of property when they have it under contract with the seller, but they're not going to purchase it until they decide what we're going to do, there's contracts there also, so I don't see this as any different. I mean, I understand the plight of the applicant, I totally do. Big proponent of solar. But at the same time, if we had someone else approach us and say I didn't budget for buffer, I already purchased the property, we have it under contract, you know, now I can't do the project, there's no way we would let someone do that without meeting the code requirements for buffering. That was -- that was one of the huge debates we had when we were putting the code together.

MR. STRODTMAN: Mr. Zimmer, can you help me, what were -- the Level 3 is a ten-foot landscape strip and then eight-foot screening device; is that correct? Would that be a Level 3?

MR. ZENNER: Yes. Now, there is plant material requirements that would go in that.

THE COURT: There's more to it, but that's kind of the gist.

MR. ZENNER: The gist.

MR. STRODTMAN: The applicant is offering an eight-foot screening device at 25-foot setback on that west side; correct?

MR. ZENNER: That is correct. It's actually behind the 66-foot wide future right-of-way, so --

MR. STRODTMAN: So versus -- so it seems to me that we're getting more from the applicants than the Level 3 in this sheer setback. Now, we may not be getting the planting materials quantity, maybe, but we're getting the setback so much more greater, which is going to help us with the impervious surface drainage.

MS. RUSHING: It's the roadway; isn't it?

MR. STRODTMAN: It is the west side, but we're given additional 25 feet on top of that, too, when a Level 3 is only 10 feet of landscaping material, so we're getting 15 feet more by the applicant, if I'm seeing that correctly.

MR. ZENNER: I think from simple math perspective, yes. Now, Mr. Palmer, I opened up the UDC, the required setback in an industrial zone against a residential zoning district is actually 20.

MR. STRODTMAN: It's 20?

MR. ZENNER: It's 20 feet from the property line, so basically, you're getting an additional five feet of setback from what would be the planned right-of-way line back, so instead of 20, you're getting 25. They're putting a fence -- actually proposed to put the fence at 25. The additional space between the back of the right-of-way and then the fence of 25 feet, would be improved with the trees at the time that the roadway was installed, as Mr. Palmer pointed out. That would be a city capital expense along with that. In the interim period, however, you're dealing with 66 plus 25, which is, what, 81 feet from the adjoining residential property line of not having any solar panel. You're also moving the solar farm on the southern property line 75 feet back from that adjoining property, almost an equivalent amount and

preserving existing vegetation, and still installing an eight-foot fence. I would suggest that it could be conceived that the trees that are between the property line and the fence in that 75-foot buffer, while technically within the code, they can't be counted toward meeting the landscape screen that is supposed to be on the inside of the fence, the trees that are probably there are probably far more effective at screening the facility on the southern property line than any brand new vegetation ever would be out of the gate. So I mean, when you look at the adjoining southwest corner of the property, as Mr. Palmer pointed out, I would suggest that you are getting at least more on the southern property line, the screening on the inside of the fence really won't do anything effectively for the southern property owners. It will do far less than its existing vegetation line where they are required to put the fence in where our code standard placement is, you would damage the trees that are there today, and that is not -- doesn't make common sense to us as a staff. Now, it is the prerogative of the Commission and council, Commission to make the recommendation of reductions and council can approve them. If you so choose not to, you know, that's your recommendation with authority and council can address the issue from the applicant's requested perspective and they may override the commission or not. I think we're looking at what do you -- what's the best solution possible here, not necessarily the most convenient for the applicant. I think we're looking at what's the practical solution here, and how does that fit into the context here. The industrial designation of this property has to deal just with the type of utility use that this is. It doesn't necessarily have anything to connote the impact that a solar facility creates. Our code did not contemplate solar. And you-all who have been long enough with us know that. It does not have a solar category. And so if this were a public utility, which would have been regulated by the PSC or some other entity, this would have not even come before this commission, would not have gone before city council. It would have gone directly to a building permit to clear the land and to allow the facility to be built right out of the gate with no public involvement. This process has resulted in a significant amount of public engagement from city staff for reviewing and the opportunity to be here this evening. I'd like to suggest or at least point out that the RFP process that was submitted by our Water & Light department did not specify that proposals had to be within inside city's corporate limits. It did not even have to be inside state of Missouri. It had to be someone who could provide us solar as part of our energy portfolio. There was no discussion about zoning-related matters and what the conclusion would be of what this project may fit or accommodate, so under what zoning classification, until the parameters of the project were brought to our attention as a city staff, as a part of basically working through the permitting process, it was concluded that, as Mr. Palmer pointed out, our law review of what the business was, how it fit into the definitions of a public utility, and it did not comply with those. As such, it is not a public utility, it's got to be a private utility, and a private utility would generally be considered industrial in nature; hence, we're going through this process. We did not either contemplate that this would be where we are today, but this is where we are. So as far as incorporating the costs or being able to know when the costs are going to be incorporated in, nobody would have known that, but that was not -- that was an omission of the RFP process at all. I'd like to make sure that that is known. The RFP process didn't include what their zoning

authorization or their construction program would have to go through. All of that, of course, came after the fact, after they tried to go ahead and start to yield permits for this project to begin this process of construction. So the RFP was simply to get a qualified bidder to be able to supply solar energy to the City of Columbia and then enter into a power purchase agreement with the city in order to have that purchase back and put back into the city's infrastructure.

MR. STRODTMAN: Thank you, Mr. Zenner.

Mr. MacMann?

MR. MacMANN: I do have a question, and I may have a way forward.

Mr. Palmer, can you go back to the slide that refers to the north side street to trees, please? This is one of three sets of boundaries. I'm of the mind here, Mr. Toohey, and Commissioner -- other Commissioners, that we follow the code as close as we possibly can, and if council wants to override us, they can do that. Here's what I'm thinking about making a motion, to approve this with the last two waivers, but not the street/tree waiver, requiring the street trees.

MR. STANTON: On 70?

MR. MacMANN: On the outer road. That's what I'm thinking. And if council has better wisdom or they have money or something like that, they can address that issue, if they want to override us.

MR. STANTON: I'll second.

MR. MacMANN: I'm talking this motion out, I haven't made it yet.

MR. TOOHEY: Maybe you should make a motion.

MR. MacMANN: Before I went down that path, Mr. Strodtman, I think has a question.

MR. STRODTMAN: I was thinking out loud, and I don't have a question after all. I was thinking more about the residential side is what I was thinking, and that would be addressed by the city streets at a future date.

MR. MacMANN: And that's just one question, sir. Will, streets and roads, they're going to do that; right? It's in the PD plan, it's just not a policy issue? When they put that street in, if and when they put the street in according to CATSO, they're going to put the streets in.

MR. PALMER: So the street is already on the CATSO plan, that's why they're required to dedicate it.

MR. MacMANN: Right. But when it actually gets built, we collect.

MR. PALMER: So it's shown on the plan just as a provision. We're basically showing that that's there, and they're not building there. So when they come back for a final plat of the property, which will be the next step, then they have to plat the right-of-way, and then whatever point in the future the city decides that they have the funding or they're interested in building a road, then at that time, they would install the road completely according to our street standards.

MR. MacMANN: Okay. Just ask that question one more time. When that road goes in, does the city put those trees in?

MR. PALMER: Correct.

MR. MacMANN: Thank you very much. Mr. Chairman, I have a motion.

MR. STRODTMAN: Yes, Mr. MacMann.

MR. MacMANN: In the case of 18-115, might have to help me here, Mr. Zenner, because I want to get this wording right. Request by Cypress Creek Renewables seeking rezoning on the property by request, I move that we approve the plan as presented with the exception of the tree waiver along I-70 Drive Southeast. The other two waivers, bufferings are -- I move that they go forward.

MR. STRODTMAN: Thank you, Mr. MacMann. Do we have a second?

MR. STANTON: Second.

MR. STRODTMAN: Mr. Stanton. Commissioners, we have received a motion by Mr. -- by Commissioner MacMann. And received second by Commissioner Stanton. Is there any questions needed on this motion?

And Mr. Zenner, you're okay with the way it's being presented?

MR. ZENNER: Yes.

MR. STRODTMAN: Okay. I see no questions. Ms. Burns, when you're ready for roll call, please.

MS. BURNS: Yes. Mr. Toohey?

MR. TOOHEY: Yes.

MS. BURNS: I vote yes.

Mr. Harder?

MR. HARDER: Yes.

MS. BURNS: Mr. MacMann?

MR. MacMANN: Yes.

MS. BURNS: Mr. Stanton?

MR. STANTON: Yes.

MS. BURNS: Mr. Strodman?

MR. STRODTMAN: Yes, ma'am.

MS. BURNS: Ms. Rushing?

MS. RUSHING: Yes.

MS. BURNS: 7 to 0, motion carries.

Roll Call Vote (Voting "yes" is to recommend approval.) Voting Yes: Mr. Toohey, Ms. Burns, Mr. Harder, Mr. MacMann, Mr. Stanton, Mr. Strodman. Motion carries 7-0.

MR. STRODTMAN: Thank you, Ms. Burns. Recommendation for approval will be forwarded to city council for their consideration.