

**MINUTES**  
**PLANNING AND ZONING COMMISSION MEETING**  
**COLUMBIA CITY HALL COUNCIL CHAMBER**  
**701 EAST BROADWAY, COLUMBIA, MO**  
**SEPTEMBER 9, 2021**

**COMMISSIONERS PRESENT**

**Ms. Sara Loe  
Ms. Valerie Carroll  
Ms. Tootie Burns  
Mr. Anthony Stanton  
Ms. Joy Rushing  
Ms. Sharon Geuea Jones  
Ms. Robbin Kimbell  
Ms. Peggy Placier**

**COMMISSIONERS ABSENT**

**Mr. Michael MacMann**

**STAFF PRESENT**

**Mr. Pat Zenner  
Ms. Rachel Smith  
Mr. Brad Kelley  
Mr. Clint Smith  
Mr. Rusty Palmer  
Ms. Nancy Thompson  
Mr. Tim Teddy**

**I. Call to Order**

MS. LOE: I will now call the September 9, 2021, Planning and Zoning Commission meeting to order.

**II. INTRODUCTIONS**

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

MS. CARROLL: Commissioner Geuea Jones?

MS. GEUEA JONES: (Not in Council Chambers).

MS. CARROLL: Commissioner Placier?

MS. PLACIER: Here.

MS. CARROLL: Commissioner Kimbell?

MS. KIMBELL: Here.

MS. CARROLL: I am present. Commissioner Loe?

MS. LOE: Here.

MS. CARROLL: Commissioner Stanton?

MR. STANTON: Here.

MS. CARROLL: Commissioner Burns.

MS. BURNS: Here.

MS. CARROLL: Commissioner Rushing?

MS. RUSHING: Here.

MS. CARROLL: Commissioner MacMann.

MR. MACMANN: (Not present).

MS. CARROLL: I'm going to go back. Commissioner Geuea Jones?

MS. GEUEA JONES: Here.

MS. CARROLL: We have eight; we have a quorum.

MS. LOW: 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 motion on the agenda?

MS. BURNS: I move to approve the agenda.

MS. PLACIER: Second.

MS. RUSHING: Second.

MS. LOE: Moved by Ms. Burns. I'm going to say seconded by Ms. Placier. I'll take a thumbs up approval of the agenda.

(Unanimous vote for approval.)

MS. LOE: It looks unanimous. Thank you.

### **IV. APPROVAL OF MINUTES**

MS. LOE: Everyone should have received a copy of the minutes for the last meeting. Were there any additions or corrections to those minutes?

MS. GEUEA JONES: Move to approve.

MS. LOE: Thank you, Ms. Geuea Jones.

MS. KIMBALL: I'll second.

MS. LOE: Seconded by Ms. Kimbell. I'll take a thumbs up approval on the minutes.

(Seven votes for approval; one abstention.)

MS. LOE: Seven to approve, one abstention.

### **V. TABLING REQUESTS**

#### **Case Number 214-2021**

**A request by Blew & Associates, PA (agent) on behalf of D.L. Rogers Corporation (owner) for a major revision to the Hyde Park Planned Commercial Subdivision Block 1 Lot 101 C-P Plan (Planned Development). The new PD Plan includes a revised site layout and will require a new statement of intent. The 1.37-acre site is zoned PD, commonly addressed 3700 Buttonwood Drive, and is generally located on the southern frontage of Nifong Boulevard between Buttonwood Drive and Hyde Park Avenue. (This item was tabled to the September 9, 2021 Planning**

**Commission meeting. The applicant requests a second tabling to the October 21, 2021 Planning Commission meeting.)**

MS. LOE: Any comments from staff?

MR. ZENNER: No. The applicant has requested the second tabling to the 21st of October to allow us to work with them on some technical corrections and compliance related matters to the UDC. We are supportive of the request.

MS. LOE: Thank you, Mr. Zenner. Commission discussion? Was this advertised?

MR. ZENNER: It is an advertised public hearing, so if there is anybody in the audience that would like to approach to speak, that would be appropriate, and speaking would be on the tabling request itself.

#### **PUBLIC HEARING OPENED**

MS. LOE: As Mr. Zenner just said, this -- if anyone is present that would like to speak on the tabling of this case, we would welcome those comments. Seeing none, we'll close public comment.

#### **PUBLIC HEARING CLOSED**

MS. LOE: Commission discussion? Commissioner Geuea Jones?

MS. GEUEA JONES: If none of my fellow Commissioners have comments, I will make a motion. I move in the Case of 214-2021, Hyde Park Planned Commercial Subdivision PD major amendment and statement of intent, that we table said case till date certain October 21, 2021.

MR. STANTON: Second.

MS. LOE: Second by Mr. Stanton. We have a motion on the floor. Any discussion on this motion? Seeing none. Ms. Carroll, may we have roll call, please.

**Roll Call Vote (Voting "yes" is to recommend approval. Voting Yes: Ms. Geuea Jones, Ms. Placier, Ms. Kimbell, Ms. Carroll, Ms. Loe, Mr. Stanton, Ms. Burns, Ms. Rushing. Motion carries 8-0.**

MS. CARROLL: We have eight votes to approve.

MS. LOE: Thank you. Recommendation for tabling is approved.

#### **VI. SUBDIVISIONS**

##### **Case Number 197-2021**

**A request by A Civil Group (agent), on behalf of Victory Christian Church of Columbia (owner), for approval of an 11-lot preliminary plat, with additional right-of-way dedications, on property zoned R-2 (Two-family Dwelling) to be known as *Victory Christian Church Preliminary Plat*. The 13.42-acre property is located on the west side of Ballenger Lane, approximately 1.200 feet north of Clark Lane, addressed as 1705 Ballenger Lane. (This item was tabled at the July 22, 2021 Planning Commission Meeting.)**

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

Staff report given by Mr. Clint Smith of the Planning and Development Department. Staff recommends approval of the Victory Christian Church Preliminary Plat.

MS. LOE: Thank you, Planner Smith. Before we move on to questions for staff, I'd like to ask any Commissioner who has had any ex parte related to this case to please share that with the Commission now so all Commissioners have the benefit of the same information on the case in front of us. Seeing none. Are there any questions for staff? Good job, Planner Smith. Since there's no staff questions, we're going to move right into public comments.

**PUBLIC HEARING OPENED.**

MS. LOE: If anyone has any public comments on this case, please run up to the podium and share those with us. Please give your name and address for the public record.

MR. MURPHY: Kevin Murphy, A Civil Group, 3401 Broadway Business Park Court. I'm not -- don't have any comments, just would be happy to answer questions.

MS. LOE: Any questions for Mr. Murphy? I see none. You're off the hook. Thank you, Mr. Murphy. Any other comments on this case? If there aren't, we'll close public comment.

**PUBLIC HEARING CLOSED**

MS. LOE: Commission discussion? Ms. Geuea Jones?

MS. GEUEA JONES: I don't know why this is me tonight, but it is. If none of my fellow Commissioners have any discussion, I will make a motion. In the Case Number 197-2021, Victory Christian Church Preliminary Plat, I move to approve the Victory Christian Church Preliminary Plat.

MR. STANTON: Second.

MS. LOE: Seconded by Mr. Stanton. We have a motion on the floor. Any discussion on this motion? Seeing none. Ms. Carroll, may we have roll call, please.

**Roll Call Vote (Voting "yes" is to recommend approval.) Voting Yes: Ms. Geuea Jones, Ms. Placier, Ms. Kimbell, Ms. Carroll, Ms. Loe, Mr. Stanton, Ms. Burns, Ms. Rushing. Motion carries 8-0.**

MS. CARROLL: We have eight votes to approve.

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

**Case Number 257-2021**

**A request by A Civil Group (agent), on behalf of John and Sarah Riddick (owners), for approval of a one-lot final plat on 9.68 acres located at the southeast corner of Stadium Boulevard and Old Highway 63. This request initially sought a design adjustment from Section 29-5.1 of the UDC relating to construction of sidewalks along the Old Highway 63 and Stadium Boulevard frontages. This design adjustment has been withdrawn.**

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 of the A-1 Rental Plat 1, Final Plat, pursuant to minor technical corrections.

MS. LOE: Thank you, Planner Palmer. Before we move on to questions for staff, I would like to ask any Commissioner who has had any ex parte related to this case to please share that with the Commission now so all Commissioners have the benefit of the same information on the case in front of

us. Seeing none. Any questions for staff? Seeing none. As Planner Palmer indicated, this was not advertised as a public -- publicly. However, we would still welcome any public comment that might help us in our evaluation of the case.

#### **PUBLIC HEARING OPENED**

MS. LOE: If anyone does have comment on the case? Seeing none, we'll close public comment period.

#### **PUBLIC HEARING CLOSED**

MS. LOE: Commission comment?

MS. CARROLL: Sorry.

MS. LOE: Commissioner Carroll?

MS. CARROLL: Just a question for staff, just to clarify because when they withdrew the design adjustment, they are in fact building sidewalks on Stadium, not partial?

MR. PALMER: Yeah. They'll be required to.

MS. CARROLL: That's what I -- yeah. Sorry. That's what I thought I read in the report. Okay. I'm good.

MS. LOE: And just to clarify, with the withdrawal, it didn't need to come forward, did it, to the Commission, or was there anything that required a review by the Commission?

MR. PALMER: So it's -- it's a minor plat, so it would have to come to you guys either way.

MS. LOE: Okay.

MR. ZENNER: Previously unplatted survey tracts.

MS. LOE: Thank you. Ms. Burns?

MS. BURNS: If there is no additional discussion, I'd like to make a motion. Case Number 257-2021, A1 Rental Plat, 1 Final Plat, I'd like to recommend approval of A1 Rental Plat 1.

MS. GEUEA JONES: Second.

MS. LOE: Seconded by Ms. Geuea Jones. We have a motion on the floor. Any discussion on this motion? Seeing none. Ms. Carroll, may we have roll call, please.

**Roll Call Vote (Voting "yes" is to recommend approval.) Voting Yes: Ms. Geuea Jones, Ms. Placier, Ms. Kimbell, Ms. Carroll, Ms. Loe, Mr. Stanton, Ms. Burns, Ms. Rushing. Motion carries 8-0.**

MS. CARROLL: I have eight votes to approve.

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

#### **VII. PUBLIC HEARINGS AND SUBDIVISIONS**

##### **Case Number 195-2021**

**A request by A Civil Group (agent), on behalf of Mid-Missouri Barrier-Free Housing for the Physically Handicapped, Inc. (owner), for a one-lot replat to be known as "Freedom House I" and two design adjustments to Section 29-5.1(f) related to street frontage and lot access. The 0.89-acre property is located mid-block on North William Street between Windsor Street and Walnut**

**Street, zoned R-MF (Multi-Family Dwelling), and commonly addressed 107 N. William Street.**

**(This case was tabled at the July 8, 2021 Planning Commission meeting.)**

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

Staff report was given by Mr. Brad Kelley of the Planning and Development Department. Staff recommends:

1. Denial of the requested design adjustments to Section 29-5.1(f) pertaining to street frontage and lot access; and
2. Denial of the final plat.

ALTERNATIVELY, if the Commission desires to approve the plat such that a "legal lot" can be created to facilitate redevelopment, staff recommends:

1. The "Design Adjustment" note be removed from the plat prior to forwarding to City Council for consideration. (Such action would result in future development needing to comply with all access-related requirements of the UDC and would likely eliminate any required Board of Adjustment variances).
2. The plat be reviewed for final technical corrections.

MS. LOE: Thank you, Planner Kelley. Before we move on to questions for staff, I would like to ask any Commissioner who has had any ex parte related to this case to please disclose that now so all Commissioners have benefit of the same information on the case in front of us. Seeing none. Are there any questions for staff? Commissioner Geuea Jones?

MS. GEUEA JONES: Sorry. I just want to make sure I heard you correctly. The -- they would have to have an irrevocable easement because they do not own the property they would be driving through to get access?

MR. KELLEY: Correct.

MS. GEUEA JONES: Okay. I just wanted to make sure I understood there were two completely separate owners. Thank you.

MR. KELLEY: What's been relayed to me, they're sister organizations, but they are separate still organizations.

MS. GEUEA JONES: Okay.

MS. LOE: Any additional questions for staff at this time? If there aren't, we will open up the floor to public comment.

#### **PUBLIC HEARING OPENED**

MS. LOE: If you have public comment, please give your name and address for the record.

MR. MURPHY: Chair and Commissioners, Kevin Murphy with A Civil Group, 3401 on Broadway Business Park Court. Before I start the clock, I've got some photos here for each of you, and one for Pat, and one for --

MS. BURNS: Thank you.

MR. MURPHY: I'd like to start out, this project is a 13-unit housing project for people with

disabilities. The current building is in a state of disrepair and such that it would cost as much or more to renovate and repair the building than it would to build new. The owners have been waiting for HUD and HDC funding for several -- at least four years now and have finally received that. Within that time, we've met with the neighbors in the neighborhood and have incorporated their wishes into a design that works for our residents, as well as the neighbors, including parking on the south side of the lot and saving certain areas of vegetation and screening -- existing vegetation and screening. The two-legged building design that we're proposing is more manageable for the owners and safer than the existing multi-hall design that's on the site now. Again, we're replacing identical size building with the identical number of units here. We're asking for these two design adjustments that will better accommodate the residents than this 40-year-old building that was never built for disabled people, and -- and also the neighbors. The writing gets scribbly. And actually we feel that the UDC allows for a design without these design adjustments under the exact same sections that we're having to request them from, and these options were given to us early on previously, but we'll address that in a moment. So those exceptions would be, except as otherwise provided and specifically authorized, all lots or parcels shall have actual frontage on the street. I think we'll all agree that we've got William Street there, we've got an entrance to it, which provides direct vehicular access to the lot. In context sensitive situations, ergo topography and such and such and such, topography is our main issue here, where actual street frontage is not feasible, the director may permit a lot with an irrevocable access easement suitable to City Counselor -- excuse me. We provided a sample easement and are willing to grant that from the neighbors, which would be, again, a sister organization. Under that, also, we have lot access which says each lot access -- each lot shall have access allowing vehicles, pedestrians, and bicycles to pass from a public street directly, or from a public street to the lot over an irrevocable access easement. In the Code, I will read you the definition of access, which is the place, means, or way by which pedestrians, bicyclists, and/or vehicles have ingress and egress to a property or use. It does not say this access necessarily goes to a parking lot or -- or anything of that nature. I'll point out later on many instances of many much larger apartment complexes within town do not meet this design. Obviously, weren't built under the UDC, but are something that the fire department, police, everybody has to deal with and know. They need to know their town and what they're doing, and I think that's not only in apartment complexes, it goes with a commercial residence, as well -- or building, as well. As far as the five criteria that -- in the staff report, again, first of all, it's a unique site with unique end users. It's not a standard apartment complex. If that were the case, we could do this without that. Again, it's for disabled folks and we're trying to provide them with the best and most usable access to their residences as possible. So number one in the design adjustment criteria, the Columbia Imagined, we're saying a second entry onto William Street, it'll be an entry regardless, just not the entry from the parking lot, which would typically be only for the residents.

MS. LOE: Mr. Murphy, we typically give speakers three minutes. You're at five minutes, and I'm happy to give you the six minutes because you're speaking for the owner, but I just wanted to give you an update on the time.

MR. MURPHY: Okay. There's a lot to go over here, and staff had -- I don't know -- 15, 20 minutes, so, anyways, the access off of William Street, the mechanical room could be a lobby. It doesn't necessarily -- it could have mechanical access to it, but it could be -- that's previously what it was noted as we changed the plan to make that an entry. I will say the fire department has not commented on this, other than the initial concept review, which, again, we proved to them we've got fire access for their largest vehicle that they have. This all comes down to addressing and -- and what's called the frontage. They have an entry that faces William Street, we have a driveway not necessarily to the parking lot, but comes off of William Street. We have fire access all around and, again, other than the initial comments in the concept review a few years ago, they have not commented on it again. It's been proven out and they have approved it. To do what staff would request takes us out of some other things with the Benton-Stephens neighborhood overlay district as far as impervious area maximums. We're limited to 50 percent, which we're at right now. The existing is at 63 percent, and if we were to do what staff requires, we'd be at 56 percent -- again, does not meet the Benton-Stephens criteria. We could -- again, short of that, and probably other issues, again, not having room to build retaining walls and other things that are pointed out there. And, again, even at the 10 percent, that was kind of a misstatement on this one diagram. To access a front door here, we're at 23 percent plus, so that's well over the 15 percent, again, that's allowed. We've got 19 feet of fall across this lot. This is a severe topographical issue to deal with. I mean, that's a two-story building in height to put in in a couple hundred feet, and if you could look at those pictures, you can -- you can see the issues. And the existing driveway, the existing handicapped parking don't work. The retaining walls are falling over because -- the existing retaining walls, because they didn't have the room to do the proper support behind those, and we're trying to squeeze them even closer than that now.

MS. LOE: Are you willing to take some questions, Mr. Murphy?

MR. MURPHY: Certainly.

MS. LOE: All right.

MR. MURPHY: Fair enough.

MS. LOE: Any questions for Mr. Murphy? Commissioner Burns?

MS. BURNS: Thank you. Mr. Murphy, are you modifying the existing structure, or what you have here --

MR. MURPHY: It will be a new building. This will be demolished and a new building.

MS. BURNS: It will be a new building.

MR. MURPHY: The existing building, again, partly due to the -- all the retaining walls that are needed on the site, because of the topography, are -- is falling. Doors don't close, there's gaps in walls. It's horrendous, actually, and that's why we're needing to --

MS. BURNS: Thank you. And just to follow up, the addressing really is the issue, and I guess with a brand-new building, it seems like there could have been something addressed off of William with a different site plan. And I'm not -- I mean, I'm not an engineer, and you -- you all are, but I just -- I'm



surprised that we seem to kind of be scooting around the back and trying to make something work where there --

MR. MURPHY: We're not. We're providing the parking in the back.

MS. BURNS: But the addressing at issue --

MR. MURPHY: Benton-Stephens requires that. You could do it on the side, but, again, we're -- the site constraints don't allow us to necessarily do that. The site design that we have came up several years ago, and we discussed it, and these design adjustments were an option we were given to address our site design which, again, is needed for the residents, their health and safety and welfare. The surrounding neighborhood, who does not want the parking lot on the north side of there, due to previous issues that they've had with it and whatnot -- unwelcome visitors coming and staying there and partying there or whatever, and they want the parking lot on the south side. They also want to maintain some screening on that north side, which would be demolished if we did that.

MS. BURNS: If I could just -- one more question. I didn't see correspondence from Benton-Stephens. Do you have anything to share with that, Mr. Murphy, or Planner Kelley?

MR. MURPHY: I do not personally. Mr. Kelley had mentioned something, but --

MR. KELLEY: I haven't had any formal correspondence to send to the Commission in this respect. I have talked with the one member at Benton-Stephens who we have shared the building plans with, at this point, just a general inquiry, no formal correspondence to send.

MS. BURNS: So there's not support from the neighborhood that we have at this point in time?

MR. KELLEY: Correct. Yes. Nothing formal has been sent.

MR. MURPHY: And we'll continue to try to get that. We've had meetings with them before, have had constant contact with one of the neighbors who used to be the president, Kip Kendrick. You might know him from a -- Representative of Columbia, and several other folks. And this -- this is the plan that we came up with, again, several years ago as they've been trying to work on this funding. And we were under the impression that this was an option that we could do, and I think if you read it in the Code, it allows for this.

MS. BURNS: Thank you.

MR. MURPHY: Topography is an issue on this site for sure, especially for the -- the users of this site.

MS. LOE: Commissioner Carroll?

MS. CARROLL: So along the lines that you were going, I can see that the William's frontage wouldn't fit with the current footprint of the building. I'm wondering, and I understand that the parking has to go in back, but there's no different building footprint that you could -- no changes that you could make to the plan that would allow this to fit?

MR. MURPHY: You know what, we're engineers, and we could do something with it. First of all, this is the best plan regardless for the health and safety of these neighborhoods. It does not affect -- or for these residents, it does not affect the health and safety of the neighbors in any sense. It addresses

their wishes of where and how they want this laid out. And, again, we've worked on this design for a number of years and -- and there's been a lot of money spent by a nonprofit agency to come up with this design. And again, it is the best design for the people that are going to be using this to have access. We could have this long frontage of the building, again having a front porch, an entryway, an access. I think the biggest gripe is that the driveway that we're proposing, which we would rather not build on William Street, but we have shown to do that, to come in, that makes it the front of the building. The parking is not there. If you think of Cottage Grove Apartments, Broad-- so many different apartment buildings in town that -- Briarcrest off of Garth, Parkway on Broadway, it doesn't -- the side of the building faces, and the driveway comes into a myriad of parking lots and whatnot -- Montmartre at Ash and Clinkscales, Aspen Heights down south or just across the street from it, Grayson Cottages, there's drives coming off the streets and not necessarily buildings having entrances off that. We're providing an entrance, or they have front entrances with sidewalks and this and that, but the drive does not come off the street. It's no different than any of those. And again, the fire department hasn't said anything more about this, that they -- other than their initial complaint, and we showed them that we have access, and their largest of largest vehicles that can reach a 100-foot-tall building could reach this one-story building.

MS. LOE: Did you have follow up, Ms. Carroll?

MS. CARROLL: No.

MS. LOE: Commissioner Placier?

MS. PLACIER: Yes. One of the criteria has to be public safety, and I noted that in the staff report, the question having people who use wheelchairs, their access to the street is to go through two parking lots to get to Walnut. There is no -- I mean, what about this -- their safety in terms of navigating that, and cars going in and out and cars trying to park, that does seem to be a --

MR. MURPHY: This is -- this is completely about their safety. First of all, they're disabled folks. They don't have that many cars. They -- the parking they have is currently on both sites is way much more than they need. It's not like it's a college apartment complex. This is the safest, most ADA accessible route to do this. The only way to get an accessible route -- pedestrian route off of William Street would be building hundreds of feet of zig-zag, cross back and forth landings from the face of the building to the sidewalk on William Street, a big concrete face of zig-zagging sidewalk with handrails on it, and -- and not only is it hugely expensive for the clients that is trying to provide for these folks a safe place to live, it's an ugly, ugly eyesore for the neighbors versus having a nice, beautiful front on the building, having this concrete monstrosity. I would akin it to a parking garage running in front of it by story after story of sidewalks zigging back and forth.

MS. PLACIER: Yeah. Well, that -- I --

MR. MURPHY: And that -- that's -- that -- even though it technically meets ADA, you know, versus a flat 2 percent route straight to your door, your ramp to -- or up ramp -- up ramp -- up ramp to get into somewhere.

MS. PLACIER: So there aren't that many people with cars in the neighboring facility to the

south?

MR. MURPHY: Most of the facilities facilitate and rent to physically disabled people.

MS. PLACIER: Yeah. I'm aware of that. It -- it seems that it's been designed for the new facility to have more of a relationship with its sister organization, whatever --

MR. MURPHY: Well, it's -- that's certainly part of it, as well. It makes essential area that --

MS. PLACIER: -- than it is to have it in relation to its neighborhood, but that does put -- that did cause me to worry about the route people would have to take to get to Walnut, which is a great way to get, say, downtown. I mean, it's not a bad thing to have to -- to go to Walnut and then go downtown, but I just wanted to be sure there was a safe way that's not --

MR. MURPHY: Well, certainly. You know, our clients would not be doing this. I mean, the clients are doing this for their clients, if you understand what I'm saying. It makes everybody able to co-mingle much easier between the two sites. And again, it takes care of the neighbors' concerns of having a standoff alone parking lot behind all these single-family houses that unsavory things have happened there in the past that's just been a complete complaint of theirs for years. And so it's moving that away from these neighbors and families and centralizing it in their own complex where everything will be watched better, provide safer routes for the residents and again, this is all about -- it's all about them and the neighbors, and this is the design that we had come up with and thought we could get through this process through the exceptions that are allowed for in the UDC.

MS. LOE: Ms. Placier, did you have any additional comments?

MS. PLACIER: No.

MS. LOE: Mr. Kelley, just -- I'm counting four two-bedroom units and eight one-bedroom units at the property. How many parking spaces would be required?

MR. KELLEY: If you could tell me the bedroom number mix again?

MS. LOE: Four two-bedroom, eight one-bedroom. Nine one-bedroom -- sorry -- for a total of 13 units.

MR. MURPHY: Thirteen units is a -- considered a residential-care facility, and I think it's -- I don't even think it's one space per bed or per unit.

MS. LOE: Right. I'm just -- under -- under the City requirements -- while they're looking that up, Mr. Murphy, you mentioned that you were an engineer, not an architect. You also mentioned this project has federal and state tax credit funding. Under the building code and the funding for the project, it will need to meet accessibility requirements. So I'm aware some of the accessibility requirements are in the building code, but this does -- is required under several of those guidelines to have an accessible route from the main entrance to the City sidewalk -- to the public sidewalk.

MR. MURPHY: Yes.

MS. LOE: So I'm a little concerned about that 23 percent, which you indicated was an indication, but you had also called it out as not meeting the accessible parameters at 5 percent. It can go up to 8.33 percent as a ramp, but as you just described, you're not keen on ramps. You think they're ugly. You

can build a nice ramp, just so you know it can be done, maybe working with Wallace Architects on that would be something. But I'm totally on board with Ms. Placier that, especially with this located across from a park, there should be and there is required to be an accessible route to the sidewalk.

MR. MURPHY: We -- we do have that, as the site is designed, from this parking lot across to the sidewalk that's adjacent on the --

MS. LOE: From the front door on that five-foot sidewalk through the -- no. I see it ending in a driveway.

MR. MURPHY: Not -- no. Not -- not through the front door, no.

MS. LOE: Okay. I don't see another sidewalk going to a sidewalk. I don't see any sidewalks going to a sidewalk, actually.

MR. MURPHY: There's sidewalks from the building, the corner of the -- the crux of the corner of the building through the accessible spot between the parking spaces, across the parking lot, and -- and onto the sidewalk on the adjacent site.

MS. LOE: It's typically not -- not acceptable to have an accessible route of travel in a driving lane.

MR. MURPHY: The -- they have to cross driving lanes all the time.

MS. LOE: Crossing a driving lane, yes. But this is where -- I mean, perhaps there's a sidewalk on here I'm not seeing, but again --

MR. MURPHY: It's been vetted -- it's been vetted by both of these organizations, and they are fine with it, or they're ready to --

MS. LOE: All right. Well, I'm -- I'm another organization, and I'm saying I'm not seeing that it meets the accessible requirements of our community.

MR. MURPHY: As far as I -- as I understand these rules, yes, it does. And, again, HUD and MHDC have agreed with that.

MS. LOE: I would ask for another diagram from you if this needs to be resubmitted showing -- better clarifying how that's being achieved. I would also agree with Ms. Carroll's comments that I think additional -- showing us the additional footprints that were explored before arriving at this one as the perfect layout. As a designer --

MR. MURPHY: There's not necessarily additional footprints. This was the idea that came from consultation with the owners and --

MS. LOE: Then I would ask Wallace Architects to prepare additional footprints because it appears to me that the design is creating the problems that we're encountering, because I agree with staff that I see these as problems. I'm very reticent to approve a lot that is adjacent to public access having non -- not having direct access to that.

MR. MURPHY: It's just that there would be no problem if we could combine this lot and the property to the south of it.

MS. LOE: If the legal owners want to take those steps prior to this and -- that would be a

different case.

MR. MURPHY: Well -- well, there are problems with that as far as funding and whatever. One is one MT, one is the other. They both have their funding issues. But if we were to combine these into one lot, there would be absolutely nothing wrong with what we're proposing right now.

MS. LOE: I agree, but that's not the case we have in front of us.

MR. MURPHY: And I think -- right. But I think the -- the UDC allows for that, which, you know, again, if that -- in the perfect world, if we could combine these in one lot, none of this would be a question. Just because there's a lot line there, these questions are coming up.

MS. LOE: Yeah.

MR. MURPHY: And I think the UDC allows for this when, obviously, there's topography issues on this lot. Those pictures of the current driveway starts out at 17 percent. As it gets up to the little curve drive, and you saw that does nothing for ADA accessibility --

MS. LOE: I would encourage you to explore design options to resolve some of the topography issues.

MR. MURPHY: Sure. Sure. Again, it's just that -- that we've come this far and had this design, and thought there -- there was options in the UDC that would allow this, and --

MS. LOE: Ms. Carroll?

MS. CARROLL: Did we get an answer to the number of parking spaces?

MS. LOE: Ah. Parking spaces.

MR. ZENNER: So we need to back up just a little bit.

MS. LOE: All right.

MR. ZENNER: A residential care facility is actually not a principal permitted use in the R-3 -- in the R-MF district. It is a conditional use. So I -- I would caution against calling it a residential care facility, at least we go down a CUP route. It could be classified either as a multi-family building, or potentially a group home. The overlay for Benton-Stephens clearly identifies parking requirements for multi-family and based on the bedroom mix or the unit mix, the number of bedrooms proposed, there's a total of 27 parking spaces required by the Benton-Stephens overlay. Now if we were to look at group homes, on the other hand, which is a facility -- it would be group home large, again, a multi-family structure, that is one space per two beds at design capacity, the design capacity based on the architectural plans that have been submitted is 16 beds, which would be a total of eight parking spaces as a group home.

MS. LOE: All right.

MR. ZENNER: Which would appear -- it would appear that the parking on the plan that you see in front of you right now then would be compliant.

MR. MURPHY: I'm sorry if I called it the wrong use. I --

MS. LOE: I'm only seeing a ten.

MR. ZENNER: It would be eight total would be all that would be required under group home

large.

MS. LOE: Oh. Under group home. Okay.

MR. ZENNER: They would be severely under parked if this would be considered a traditional multi-family project.

MS. LOE: Thank you.

MS. CARROLL: So under group home, you're only required eight. We're counting ten. Previously, you stated that the parking lot and its orientation towards the back of the property, which Benton-Stephens required is causing problems in combination with the footprint. What I don't understand is why you wouldn't ask for a waive to the required parking, since you've stated that your residents don't need that many parking spaces.

MR. MURPHY: They do need some parking.

MS. CARROLL: Yes.

MR. MURPHY: And we've got what's required of us.

MS. CARROLL: I don't disagree with that. In -- in the statements you made previously, you said that it was too much parking, in excess of what you thought the residents would need.

MR. MURPHY: Correct. I'm sorry. I'm not quite following. They need this amount of parking. It's -- meets or exceeds what's required. If we flip-flop it the other way, there's just so many other issues with that with retaining walls, topography, again, trying to get access. There's no way we're going to get access and provide the same amount of units that we have and get access out on -- accessible access out onto William Street without having a zig-zagging ramp across the whole face of the building.

MS. CARROLL: I'm going to agree with Commissioner Loe here on considering alternate footprints.

MS. MURPHY: Again, it can be done, it is what -- you know, what -- what the people want it to look like. What do people in this neighborhood want to look at to do that.

MS. LOE: Any additional --

MR. MURPHY: I think in our discussions with them over the several years that we've looked at this project, that this is what they want, and not -- not another design.

MS. LOE: Any additional questions for Mr. Murphy? Commissioner Placier?

MS. PLACIER: Would it be possible to have a sidewalk that went down somehow to Walnut -- the sidewalk at Walnut? I don't know.

UNKNOWN SPEAKER: There already is.

MS. PLACIER: Oh, there is?

UNKNOWN SPEAKER: Yes. (Inaudible).

MR. MURPHY: Yeah. So there is a sidewalk. Again --

MS. PLACIER: But I can't see how it goes through the other parking lot, but --

MR. MURPHY: We could put -- it's just going across a drive aisle of the -- you know, if anybody went to any store, if anybody went to park most anywhere, how many handy -- or, excuse me -- ADA

parking spaces have you seen? Some places you see them right up against the building, but how many more have you seen where they're across the main drag and people have to go across and, you know, back and forth. And, again, this is a very low used parking area, and they have ADA accessible slopes enroute to get there. It could -- it could be striped completely to -- we could extend that striking down from the access aisle across along the south side of the parking lot and down the east side of the -- to come across to the sidewalk that runs full length out to Walnut Street. If you go to an aerial, you can -- you could see that.

MS. LOE: Commissioner Placier, did you have any additional comments?

MS. PLACIER: No.

MS. LOE: Any additional questions for --

MR. MURPHY: There's a sidewalk there. I'm sorry. It runs the full length of that building and then to the east -- if you go back one more, Mr. Kelley -- I thought it was. There. There it is alongside of that building there and straight out to Walnut.

MS. PLACIER: Okay. Yeah. That's why I was wondering if it could somehow physically show a connection to that.

MR. MURPHY: It does. It's there, and it does --

MR. ZENNER: That sidewalk ends -- so the sidewalk that was in the picture that you were just viewing ends right here. But I think what Mr. Murphy is suggesting is that you could create some type of chevron or cross-watch pattern that connects you back over to get you to this portion of the building where the current handicapped --

MR. MURPHY: Yeah. I would suggest going straight from the access aisle west along the south end of the sidewalk and then east along that drive to the sidewalk that also runs along the north side of those buildings.

MR. ZENNER: Along the back of the building. Okay. So this is a sidewalk, Mr. Murphy, going to the back of the building, as well?

MR. MURPHY: Correct.

MR. ZENNER: And then internally through the building units are sidewalk connections that come back out to the Walnut Street frontage; is that right?

MR. MURPHY: I do not believe -- oh. Internally through the -- through the buildings. Yes. Yes. Not between the separate buildings.

MR. ZENNER: Okay.

MS. CARROLL: Is there a sidewalk to Williams?

MR. MURPHY: Yes. Down Walnut Street on the south side of these buildings, it goes down to the corner, and then runs north across, crossing straight over to the park.

MR. ZENNER: It looks like public sidewalks. Right?

MS. CARROLL: I see. Okay. I was --

MR. MURPHY: Crosses the street directly to the park there.

MS. CARROLL: Yeah. I meant from the --

MR. ZENNER: Are you talking about from this site?

MS. CARROLL: Yeah. I -- besides the one that you proposed. We've already covered this.

MS. LOE: Any additional questions for Mr. Murphy? I see none at this time. Thank you, Mr. Murphy.

MR. MURPHY: Thank you. Thank you.

MS. LOE: Any additional comments on this case? Please come up to the podium, and we need your name and address for the record.

MR. NUERNBERGER: Ken Nuernberger, ND Consulting Group, St. Louis, Missouri, 1425 South 18th Street, 63104. I will try to not repeat the many things that Kevin just said. I also have here that if we -- if you would like us to both speak, I have the site manager who has been there for five years that also can maybe answer some of your questions specific to the residents that are there, how they get around, and the issues of the accessibility to William Street. So I don't know if you want to do that separately, but I -- she is here -- Michelle Fort if you would like to have more questions related to that because she deals with the residents every day. but I'll go to a very brief history, I think, that's very important. As ND Consulting, we also manage the property, and that's how we got involved. We are in the business of developing affordable housing in addition to managing it, and you may have known we've done a lot with the Columbia Housing Authority, having been before you, Phil Steinhaus has, but we have helped them finance many of their projects and their renovation. In managing this, we realized the building couldn't be rehabbed, and how do we keep 13 units for severely physically disabled people available for the City of Columbia. And we've got physical needs study that showed the building was collapsing the back and it was really, as mentioned, more expensive to rehab than to build it new. And I want to say that when we first took over management, there were many problems, and that's where we got involved in the neighborhood where the problem with some of the people who provide services to the residents that are here, the caregivers, were allowing other people in at night, and that's where the issue of the north side became an issue for Kip Kendrick and his neighbors because there were visitors who couldn't be controlled and were let in the night dealing drugs, all sorts of things, and we were able to eliminate those people, make changes, but when we started proposing a new building, the neighborhood said, well, gee, you have the other building to the south, Freedom House II, can't you look to combine those two into one, and that was the drive between how do we make this all work on the site. I'm sorry we don't have laws here. Maybe Kevin wasn't, but I can tell you we have multiple, as well pointed out in all these discussions, there are so many moving parts in this property that it becomes very difficult to push one one way, and then something else happens and we are trying to create something that's attractive and works for the population. I want to point out that when HUD finances these buildings originally, this one is 40 -- almost 40 years old, that it was financed and it was renovated then. They require single asset corporations, and that's the only reason Freedom II has a different name than Freedom 1 -- different owners. They are the same people, same board members, they run together, same



management. When we went to start doing this building as to try to enhance it, make it more accessible, as the developer, you may be able to see the little house that's stuck in there. There's a little yellow house that comes off of William Street. We tried to acquire that, and the gentleman wanted \$200,000. So that, unfortunately, that could have helped this whole situation much better, so we couldn't buy that. So if we come back to you, if that what is required, it has been extremely difficult to try to make all these things work. And I think you're hearing it today. We could take hours because we spent hours trying to meet all these different code issues. If we address it one way, we have the entrance another way, we still need people that are severely physically handicapped, how do they get around in their wheelchairs. Michelle Fort will come up next and talk to you about how important it is to get out to Walnut Street. We can do some additional sidewalks, if need be, and whoever asked, to make sure there's sidewalk access. So we are willing to make some more compromises. We've done, I think, tremendous amount of compromise just trying to make this work, so --

MS. LOE: Thank you. Were there additional designs for the layout?

MR. NUERNBERGER: We tried all --

MS. LOE: Mr. Murphy indicated there weren't, so --

MR. NUERNBERGER: Well, no. He probably wasn't involved at that early stage when the architect was moving things all around knowing that they had setback issues, you know. Even the fact that it jogs -- the property jogs. This is all -- we're dealing with a history of other people who built the first phase, first decided to renovate this, then added the three other buildings for Phase Two, didn't buy the house when they did it, and now we're trying to keep very severely handicapped people in housing and still do it so that there's 25 units, all that can be efficiently managed. If we went and bought another site, then we'd have two different sites, and as you may know -- someone else pointed out -- this is a great site for downtown and accessibility for people in power wheelchairs. It is -- and they all do go out to Walnut to go to downtown, so they don't use that very difficult access that is -- was built in the '70s, I gather, for William Street.

MS. LOE: So were there other designs, layouts for the site?

MR. NUERNBERGER: Yes.

MS. LOE: So you could bring those back or we could look at those with Mr. Murphy, if need be.

MR. NUERNBERGER: Right. All the different ways of trying to make it fit.

MS. LOE: All right.

MR. NUERNBERGER: And just remember, though, that we needed to have neighborhood support and, you know, the people along the north side said we want to have the parking go towards the south, and that really drives -- and it made sense for the operations, too, that it went to the south so that there's good means of watching ingress and egress with cameras and -- and making sure no one is illegally going in there, if somebody is letting people in at night. This building has two -- as it presently exists, has too many in and out points that can't -- are not controlled, so that's one of the other things. We wanted to control it, we wanted to make it a more pleasant area to the south, and combining with the

other building, and that also was then consistent with the neighborhood's request to move the building and do green space on the north side of the property.

MS. LOE: Right. But if you can't transfer ownership to consolidate to the two lots, it may be you need individual driveways to each site. Were there any other questions? Commissioner Geuea Jones?

MS. GEUEA JONES: How many people are currently living at this facility?

MR. NUERNBERGER: I think there were eight. We are -- we're in the process, we thought we were going to be able to close and start construction, and we're starting to relocate the people out, but there are -- there were eight people because we weren't re-renting because of the condition of a couple of the units. Part of the building is actually sinking, and we don't want to go through the hundreds of thousands of dollars to try to stabilize it.

MS. GEUEA JONES: So you've got --

MR. NUERNBERGER: And by the way, it's been really, really hard to find any accessible housing for these residents to live in because they're all wanting to move back. They all want to move back, so they all will be coming back at some point.

MS. GEUEA JONES: Well, that -- that's kind of my concern. You're tearing down a building, building something completely new that's not even on the same footprint on a site that's got topographical challenges and is going to require regrading to some degree or another regardless of what you do. So I guess my -- my question is, has the fact that you're going to have conservatively a year to 18 months of inability for those people to live here, where are they going?

MR. NUERNBERGER: Well, right now, some are moving to Paquin Tower from the Columbia Housing Authority, and then they'll be coming back. We have to meet three relocation guidelines, so that's a challenge. We are presently looking for two places that we're ready to sign leases for the people who moved in, and -- well, and we just found one recently that Michelle Fort can talk about, but that has a fully accessible unit, so that's where they're going to move for the -- for the ten-month period of construction and then move back here.

MS. GEUEA JONES: So you're -- you're thinking ten months for construction, you're still relocating people. Do -- I know that you're trying to maximize and there are federal dollars involved and that can be problematic, but I guess one of my questions is, we're not trying to move 27 people back in. Do we need all of those units? Is this a site that can handle that many units, given the challenges that we've been talking about tonight and you've been dealing with for two years or three years now?

MR. NUERNBERGER: Well, the loss of any unit or one-bedroom accessible unit almost anywhere, but certainly in Columbia, would be a loss. You don't -- you can't put it somewhere else, so it would be for -- whatever you take out, you forever lose. And, again, I think Kevin pointed out, you know, we think there is a -- a compromise here that we moved, and you -- we need to show you more of the designs trying to make it work, but it is so many different elements. Again, what is the address side, which way people come out in front, the grade of the lot. I mean, all these things were -- if we could move it all somewhere else, if there was unlimited money, that might be great, but then would you have

a -- would you find a site in the downtown Columbia area that's accessible as this site is for people in power wheelchairs and wheelchairs and other disabilities to get access to downtown and have a walkable area. That's another real challenge.

MS. GEUEA JONES: And is it your -- you/the owners, you're the ones that want to keep the 107 William Street address?

MR. NUERNBERGER: I think there are -- I don't know that we want to keep it, I think it creates other -- it creates and I think others can say. I think it creates other problems by setbacks, then we have to have other exceptions to the setbacks and the fact that you're driving through another property to the front door, so I -- we would compromise. I mean, I don't think we're that set on the address, it's just what other -- I remember hearing and I can't articulate them, but other things that when you address it to Walnut, now you can't -- you have other setbacks. I don't know if it's --

MS. GEUEA JONES: Well, I -- I share my fellow Commissioner's concern that you've now got a front entrance with a sidewalk and a driveway where you're expecting people who are using wheelchairs to go down a five-foot sidewalk, which is accessible, but not luxurious, I guess, down a steep grade driveway to try to get to the park that's directly across the street. So their other alternative is to go all the way through another parking lot, around the corner, and up and back. It -- it just doesn't seem -- it -- it seems to me that the compromises that are being made aren't being thought through in a practical way. They're being through -- through on paper, not in three dimensions.

MR. NUERNBERGER: Well, I'll let Michelle Fort come up because she deals with the residents every day for years, and she can attest. We have been -- I have been in this business doing housing for people with disabilities, and I always say you tell me how to design it because you run it every day, and she does, and that's who we've listened to. So -- and the board of directors who have had this -- been on the board, so I'll let them speak to the why it's still a good site and why it works.

MS. GEUEA JONES: Thank you.

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

MR. NUERNBERGER: Thank you.

MS. LOE: Any additional speakers on this case? Please come up and give your name and address for the record. We do have a three-minute limit on speaking.

MS. FORT: Michelle Fort, and 107 North William, Columbia, Missouri. And I just want to address that, yes, there is a sidewalk along that area that goes out to Walnut, and my suggestion is that we run right along the edge of the parking lot. Do not go through the parking lot. There is absolutely room to do that. And there shows that there is a -- a sidewalk along part of the side of the parking and along the side of the building already, so we should just join those two. Do not go through the middle of a parking lot when there's already a sidewalk. And to get to the edge of William, there would be not a grade issue if you would go to the north of the three buildings. As you can see, there's already a sidewalk, and you would have to make probably about a 15-foot sidewalk, and it would be right on to Williams, and there would be no grade issue there. And I have spoken with all of the individuals that are

in wheelchairs, and they would think that that would be lovely because even the ones that live on the back side of Freedom House II have always had to go all the way around the block to get to the -- so that would make everybody happy. And the ones that live currently in Freedom House I have to try to not flip their chair going down a horrible hill, so -- all right. Questions? And there are currently ten people. Several of them have moved out already and have gone to Columbia Housing Authority. I have got everyone else placed. They're going to Columbia Housing Authority, or I have placed them at private, so I've got them housed. And as far as needing 13 units, that is never a problem. I always have a waiting list -- always. Not a problem. Zero entry housing, I had to -- had to have people build ramps to house my individuals.

MS. LOE: Questions for Ms. Fort?

MS. CARROLL: Do you know --

MS. LOE: Commissioner Carroll?

MS. CARROLL: Thanks. Where is the nearest bus stop?

MS. FORT: Well, you can thank the City of Columbia for that. The nearest bus stop was immediately out of the north parking lot at Freedom I until they made all the cuts, and that was a horrible, horrible thing for us and, no, they didn't want to listen to that. It's currently down at Boone Hospital. So they can wheel downhill, but they get horrible blisters coming back up.

MS. LOE: Additional questions? I see none at this time. Thank you.

MR. GEBHARDT: Good evening. My name is Jay Gebhardt; I'm a civil engineer and a land surveyor with A Civil Group here in Columbia, 3401 Broadway Business Park Court. And all the previous speakers have made good points. The one thing I want to talk about is the final plat, and then the design adjustments. I would ask that you vote on those separately and not tie them together. As the staff stated in their report, the final plat meets all of the UDC requirements except for the note that the staff required us to put on there stating the design adjustments. I ask for this because design adjustments have no effect on the plat itself -- the face of the plat. It's all an architectural plan impact, no impact to the plat. So if that makes sense to you all, I would ask that -- that you guys look at it that way. You can vote it up or down. If you could vote separately on those, I would appreciate that. And you know to kind of simplify this for everyone, there's been a whole lot of thought on this. As Ms. Loe said, there's federal money involved. There's going to be oversight for the ADA accessibility, and that's going to be vetted, you know, thoroughly, and not just by the City of Columbia. So I believe and I truly do believe this, in my professional opinion, that the best option for these people, not only for the people that live here, but for the neighborhood as a whole, is to have this access out to Walnut Street. If you guys have any questions, I don't want to take any more of your time, but --

MS. LOE: Thank you, Mr. Gebhardt. Any questions for this speaker?

MR. GEBHARDT: Thank you.

MS. LOE: I see none. Thank you. Any additional speakers on this case? If there are none, we will close public comment.

**PUBLIC HEARING CLOSED.**

MS. LOE: Commission comment? Commissioner Burns?

MS. BURNS: I have a question for staff. In Mr. Gebhardt's request and your recommendation that you had denial of the requested design adjustments and denial of the final plat, do you have any additional comments on that, Mr. Kelley?

MR. KELLEY: No. I think that would be the appropriate action to make --

MS. BURNS: Do it separately?

MR. KELLEY: Yeah. Do it separately.

MS. BURNS: Okay. Okay.

MR. KELLEY: And there are two design adjustments, and I can read those off for you, as well. Yeah. They would be to 29-5.1(f)(1)(iv)(A), and 29-5.1(f)(2)(i). They are interrelated, so for those two, for practicality sake and clarity, you would either recommend approval for both, or recommend denial for both as they're interrelated.

MS. GEUEA JONES: Madam Chair?

MS. LOE: Commissioner Geuea Jones -- sorry.

MS. GEUEA JONES: That's okay. You were -- you were focused.

MS. LOE: I'm reading the -- the --

MS. GEUEA JONES: To be clear, Planner Kelley, we could do, in the alternative, and if we do that, we would vote to deny the design adjustments, and then approve the final plat subject to the technical corrections and removing the note; is that how we would phrase that?

MR. KELLEY: Yes.

MS. GEUEA JONES: So still do two votes.

MR. KELLEY: Yeah. So you would -- I believe --

MR. ZENNER: That is -- that is correct, Ms. Geuea Jones.

MS. GEUEA JONES: Okay.

MR. ZENNER: I think the critical element here is is the -- if you choose -- if you do not choose to entertain the alternative, due to the fact that if you do deny the design adjustments, the plat is not compliant and, therefore, the plat would need to be denied. So if you -- if you choose to do the alternative, you know, it's almost you have to -- you'll look at them as two pieces. It's the alternative vote and you discard the request of the applicant to approve the plat and the design adjustments, and instead you're going to make a motion to approve the plat without the design adjustment node. Two separate actions here, that's what the alternative is meant to present, but if you choose the first principal recommendation, it's two votes; one to deal with the design adjustments, and one to deal with the plat.

MS. GEUEA JONES: So the alternative is just a single motion and vote?

MR. ZENNER: Single motion, single vote is the way that I would view this, unless Ms. Thompson has a different interpretation of that. That is her nodding her head no, so it is entirely dealer's choice here this evening.

MS. GEUEA JONES: And that -- that would give them their plat subject to all the requirements of the UDC, and they could create a new development plan?

MR. ZENNER: They could, and I will advise the Commission that if that is the direction they pursue, the plat would be approved. It would grant them legal lot status, provided the Council approves the plat, as well. There would be no additional review of this building proposal coming before this Commission. So it would be fully addressed through our regular regulatory process. Adjustments to any zoning related matters are Board of Adjustment, so that would include parking, setbacks, design as it relates to the Benton-Stephens overlay. Anything then that would come up at the time through a redesign that may require some type of additional design adjustment, coming back possibly to re-discuss access based on a series of alternatives, that design adjustment would be a freestanding design adjustment given the plat has been approved. So depending on what avenue the applicant attempts to go, they either can come back through the regulatory process either here or at the BOA, or they can design it to avoid that process and move forward in construction.

MS. GEUEA JONES: Thank you for the clarification.

MS. LOE: Mr. Zenner, just for my clarification. If this is approved, that approves the plat plan and the hardscape as shown, so any -- the discussion we were having about access and whatnot --

MR. ZENNER: If the plat is approved with the design note being removed, the plat is subject to meeting all of our design requirements of the UDC, which means lot frontage is off of William and so too would be access, and the building is addressed from North William with setbacks associated front to North William, rear opposite, side setbacks to the north and south. I would tell you that the design of the building as presented at this point would not potentially function on that lot with those conditions. But it does give them a legal lot in which they can then pursue to work on the building design. I think really is the irony here, if I may just add, we have brought forward a building plan related to a platting action. Only through the advice that we have given to the applicant that we needed to resolve these matters before this case approached City Council, given other current issues that have presented themselves at Council with the replatting of property and the demolition of existing structures, the question will be raised as to how is this property being redeveloped. And we were hoping to be able to resolve some of those issues by addressing access and frontage through this body, which is the appropriate venue. It just happens to be that it involved having to go through all of the site planning related material that we discussed this evening, which is, as many of you were aware, very atypical of this process unless it was planned district, which it is not. So we hope that we don't have to do this again, but we're also trying to ensure that we've dotted the i's and crossed the t's to the best that we can to help the applicant as they move to the next stage. Ultimately, we advised that this was going to be a challenging request before this body, and it has proven such with the discussion that we've had tonight.

MS. GEUEA JONES: So, I'm sorry. I'm not trying to be dense, but again, if we say -- if we do the alternative motion, they will likely have to redesign their building in order to meet the requirements of the UDC under straight zoning?

MR. ZENNER: That is as we see the plan, yes.

MS. GEUEA JONES: Okay.

MS. LOE: Just to back up a little further for my clarification, is it that the applicant didn't understand these two conditions were actually design adjustments, based on the language in the UDC, that they proceeded, or --

MR. ZENNER: I can't personally speak to that, given that the original concept review that was held on this design was in 2018, roughly six months after the UDC was adopted. The notes, according to our records, did not consent, and there was no implied consent either to the design of the building as has been -- has been fully designed at this point. Further, to my knowledge, with my own staff, we were not re-consulted as to the viability of obtaining a shared private driveway access easement, nor were really consulted as it related to, well, what was the impact of that. It is an unfortunate situation due to the timing of funding and how long it has taken to get to this point that now, as we have looked at the details associated with platting, the conditions associated with platting property in the City of Columbia have changed somewhat, and we are being precautionary to ensure that we set the applicant up for success, not potential failure. But in order to be able to set them up for success, they have to go through the prescribed process. We did give great consideration to the director's discretion. It is the opinion of staff that this is not the best scenario for this site to benefit the users of it or the general public from health and safety, and therefore, that is our recommendation, and that's what we're standing on.

MS. LOE: And it's that the irrevocable access easement is not considered suitable by a City Counselor. I mean, we're at the design adjustment because both of those items, the frontage and the lot access, contain the language or, but the point at which we're at, City Counselor or designee have determined the irrevocable access easement is --

MR. ZENNER: The City Counselor -- the City Counselor or their designee is responsible to evaluate the access easement to ensure that the interests of the City of Columbia would be being adhered to.

MS. LOE: Uh-huh.

MR. ZENNER: It is not the City Counselor or designee's discretion to determine if it is appropriate based upon the criteria. That is left to the director.

MS. THOMPSON: I'm just going to weigh in, as being the City Counselor.

MS. LOE: Yes. We -- we are in the position to have your personal opinion on this.

MS. THOMPSON: We -- we would only, in that instance, review the form, and we would make sure that if you decided that you were going to -- if a design adjustment is authorized, what our role in that is just to ensure that the form is correct and that the appropriate language is there, and we would negotiate that with them and just make sure that it was an appropriate form. So like Mr. Zenner indicated, we don't make a value judgment as to whether or not it's an appropriate adjustment to grant. That's up to this body and the City Council.

MS. LOE: So you -- you would only be completing that form once it had gone through the proper

reviews -- and I'm just trying to clarify because it -- at some points, it appeared to be presented to us that we were deciding between this access easement or the design adjustment, and based on my understanding, we don't really have a City sanctioned access easement to consider at this point.

MR. ZENNER: I think the design adjustment -- the design adjustment is to allow for the usage of an access easement.

MS. LOE: Correct.

MR. ZENNER: So that is -- that is what's the purview of the Planning Commission, to waive the requirement to have the lot actually fronting on a real street. The lot has -- and part of the argument that we have made as a staff, part of the analysis is the lot currently has lot frontage on North William. It currently has direct driver access from that same frontage. It is not a land-locked parcel, which is typically why you would see the usage of a shared access easement. It has no physical ability to get the frontage. It's on a cliff, and you can't go off the cliff with your driveway, so you have to go through somebody else's property. The conditions, while, yes, they may have topographic issues, when you look at the grander, fuller perspective of all of the issues associated with this parcel, it just does not meet the standard that we believe is appropriate to be applied. And therefore, it is our position that the design adjustment for alternative lot frontage is inappropriate.

MS. LOE: All right. I think I've dragged that over coals enough. Any additional comment?

MS. KIMBELL: I am still confused on that last part. So if we -- if we do the design adjustment, if we don't go for that, we go for the plat, the design adjustment then moves on to where?

MR. ZENNER: The design adjustment, at that point, it is -- the design adjustment note is taken off and, in essence, the design adjustment request is being waived, which, if I understood Mr. Gebhardt, indicated, that is what the applicant -- they would like to legal lot status. So the way that our Code is written, if the applicant consents to the removal of the strengthening of a document, if we go to a more intense zoning classification or, in this instance, we require the document to comply with all of our regulations, meaning it's becoming more restrictive, we can move that forward to City Council, and that is what we would convey in our staff report. I want to point out, and this goes to Ms. Geuea's question earlier of how do you handle the motion. My recommendation is is that the applicant has asked for approval of a final plat with design adjustments. If you would ask me, I would probably have that motion made. And if it is the desire of the Commission, have it die for the lack of a second, and then propose an alternative motion and vote on the alternative. That will make the record extremely clear as to what the intent of the Planning Commission was. With that, I'm going to sit back unless you have any other questions.

MS. LOE: Why thank you, Mr. Zenner. All right. Additional comments? There's no further additional Commission comments, there's additional public comments. We can open up the floor again to public comment.

**PUBLIC HEARING OPENED.**

MR. GEBHARDT: Jay Gebhardt with A Civil Group, 3401 Broadway Business Park. I don't



want to make this any more complicated. I really don't. But my understanding, and the way the staff has presented this is not what I meant. What I meant is vote on the plat, up or down, and vote on the design adjustments, up or down, and make your recommendation to the City Council on each one of those items. And then let us go to City Council with a negative recommendation on the design adjustments and a positive recommendation of the plat, is what I'm hoping for, and that's -- I'm not waiving our right to go to City Council with the design adjustments. I'm just asking you to look at this as two separate items. So if we had come forward and we're not transparent and we're not forthcoming with what our plans were, we would not be having any of these design adjustment discussions now. We are having them because staff is trying to help us help ourselves by addressing them now. But by turning these two things at the same meeting at the same time, I think, is -- I don't want the baby thrown out with the bath water. So --

MS. THOMPSON: So, Chairman Loe, my --

MS. LOE: Yes.

MS. THOMPSON: I think the difficulty with what Mr. Gephardt is suggesting is is that you can't just vote yes on the plat itself because it contains a note related to the design adjustment. So -- so that's what Mr. Zenner is trying to explain to everyone, which is if you were to vote or recommend yes on the plat, you can have a separate vote on the design adjustment, and that's -- that's perfectly acceptable. Right? And that gives you your direction -- your next direction as to maybe what you would like to do with the plat. But you can't just vote up or down on this plat and -- and have it accomplish, I think, what he is requesting because it does have that design note. Now you -- you could give your recommendation to the City Council that you would vote yes on this plat without the note if you're wanting no design adjustment.

MR. GEBHARDT: That's what I would prefer.

MS. THOMPSON: And so -- and so that would allow it to continue to move forward, but I think that's -- that's really the kind of guidance that the City Council is looking for from you is just some clarity as to whether or not, without the design adjustment, this board would have recommended approval or denial. That's ultimately the bottom line.

MS. LOE: Thank you. Well, I believe that builds on Mr. Zenner's initial suggestion, which was to vote on it with the adjustment as proposed, up or down, then if it gets voted up, you're good. If it gets voted down, perhaps make a second motion without it, and then it would get voted up or down again. And by those two votes, I think we're voting on the design adjustment.

MS. RUSHING: But can you approve the plat without the design adjustment? That's my question.

MS. GEUEA JONES: Yeah.

MS. LOE: Well, once we've voted on it --

MR. GEBHARDT: You're approving the final flat, Ms. Rushing, with the condition that the note be removed.

MS. THOMPSON: If you vote down design --

MS. LOE: If it's been voted down initially.

MR. ZENNER: And procedurally -- procedurally, and Ms. Thompson knows this very well because we follow this process with every planning action that has a design adjustment. We will produce a separate report for the design adjustment for Council's consideration. So what's being discussed is procedurally how we would technically do it anyway. We would prepare a staff report with the design adjustments vote, and then we would prepare a staff report dealing with the platting action. And so if you -- if your recommendation is to condition approval of the plat, that's what's going to be in that staff report. And your recommendation then is freestanding for the design adjustments and pursuant to the way that the UDC is structured, design adjustments that are denied by the Planning Commission can be overridden by a two-thirds majority vote of City Council, which is why Mr. Gebhardt is asking for you to separate the question, vote on them individually. If you choose to vote the design adjustments down, Council still gets an opportunity. The alternative motion really was designed more to the design adjustments are eliminated. We are not -- you're approving just the final plat without any design adjustments. Ostensibly, what's being discussed between Ms. Thompson and Mr. Gebhardt is the same thing. It's just it's got to be two separate motions, and we'll leave it up to Council to find -- finish the process.

MS. RUSHING: But if we vote to deny the design adjustment, then -- and I think this question was asked before, but I just need to make sure -- then the -- the building design that they've shown us would not work?

MR. ZENNER: That is correct. But the building design has nothing to do with the platting. The building design has only been brought into this process for context purposes so we can evaluate the design adjustments.

MS. RUSHING: Got it. Okay.

MS. LOE: Mr. Stanton?

MR. GEBHARDT: Thank you, guys.

MR. STANTON: Sir --

MS. LOE: No. No. He's -- you're not -- Mr. Gebhardt?

MR. STANTON: I've got you on the hook. I was waiting for you to come up here.

MR. GEBHARDT: Well, I thought you were moving me out of here.

MR. STANTON: Well, I want a win-win. Now, if you want to leave --

MR. GEBHARDT: No.

MR. STANTON: I'm wondering what -- why did we get to the point where this -- you came with us with this being denied by staff? Why -- what ground do you stand on that we can't --

MR. GEBHARDT: To be quite frank -- to be quite frank, we had a concept review three years ago, and at that concept review, this path was given as an option. There is no documentation of that. There is nothing in writing on that, but we have e-mails from the architect that all these things were

discussed, and -- and there was notes made by the architect after the meeting to memorialize what they thought. And it was clear that we were given two choices, and this was one of them. And so here we go. We go down this path in -- we started in 2018, and in 2021, you know, we've come to a different political climate. Things are different, but the Code has not changed as far as these items. It's the exact same thing. So can I rely on what staff tells me at a concept review? Yes, I should be able to do that. And I -- I'm not saying anything about the staff at all. They're great. They do a great job, but they only can do what they can tell me what they know as far as the Code is concerned, and that was given as an option in 2018. So that's how we ended up going down this path and having architectural plans and everything prepared is because we thought it was one option for us. And I guess there always is an option. Right? Anything is an option, but we truly believed that staff would -- and the fire department and everyone else would be okay with this. So far, it seems like the fire department is okay with this. They're -- they've kind of gone silent on me, but they're not disapproving it, either.

MR. STANTON: This kind of housing is priceless. This -- this project must go, and I'm just -- I'm just wondering where this disconnect -- this has got to happen, but if we're -- if we're at this crossroads where the staff is not supporting where you're at --

MR. GEBHARDT: The staff is supporting their UDC, their Code, and we have a unique situation here --

MR. STANTON: You can't survive without the adjustments. Like, if you just built on the footprint you've got existing right now, it's not going to work.

MR. GEBHARDT: The answer to your question, yes. There is a design out there that could be done. It's going to have a ramp, whether it's aesthetic or not. It's -- to me, if I was in a wheelchair and I had a choice between going on a level sidewalk out to the street, or a ramp system, I would prefer the level. And that's how we got where we are, Anthony. So, yes. There is a design out there that can do. And what I'm asking for is let's not have the plat --

MR. STANTON: Yeah. Let's fight about the design later.

MR. GEBHARDT: -- because if -- if the City Council decides that the design adjustment is not appropriate and they don't approve it to a five-to-two vote, because it's a super majority. It gets turned down.

MR. STANTON: Come back with it -- you can come back with a different design, because you've got the plat already.

MR. GEBHARDT: Then -- then we'll have to go back to the drawing board and -- and figure out a different plan. And I'm -- in my opinion, it would be a less superior plan. It would not be as good.

MS. KIMBELL: It wouldn't be as good as this one?

MS. LOE: Commissioner Burns?

MS. BURNS: Mr. Gebhardt, could you just hang out for a minute. Could Mr. Gebhardt withdraw his design adjustments, and we only are voting on the plat?

MR. ZENNER: He could.

MR. GEBHARDT: Mr. Gebhardt is not going to do that.

MS. BURNS: Okay.

(Multiple people talking simultaneously.)

MR. GEBHARDT: And that's really a question for them, not for the architect or the engineer.

MS. BURNS: Okay.

MS. LOE: Any additional questions?

MR. GEBHARDT: Thank you.

MS. LOE: Thank you. One final public comment?

MR. NUERNBERGER: Representing a very small, very poor nonprofit group, we have hundreds of thousands of dollars invested in this, and I think A Civil Group did say there were issues. I was aware there could be, you know, more contentious meeting today. I heard a couple things that -- we're looking for -- I want to look for a compromise, because I think, Mr. Stanton, you mentioned, you know, the need is great, and probably you all feel that way. Can we find a solution? And that's what I want to present right now. How do we find a solution, or at least if -- even if we have to table this, if we were to bring back our evidence that we did a lot of different designs, and then we brought in evidence of what the neighborhood wanted, because then we might have people here, if we do the plan that was just -- Gebhardt mentioned that might be right on the same footprint, then we might have opposition from the neighborhood because they didn't want the parking lot to be to the north. And so then we would have opposition. So, you know, if we have to revisit, you know, some of us that are -- are not the architects or -- and I represent a nonprofit, to figure out if there's a compromise, I would like to try to figure that out and not have to throw away the whole thing because it is designed. Shame on us if we should have come in earlier and had more discussions to see if there was adjustments. Someone asked -- I'll ask again later, you know. If we change the address, would it change the whole thing, you know? So all these things maybe we thought were going to -- we were going to make it, but this is very scary for me and my client, you know, that how much money we could lose and never get this done after we raised almost \$3 million to do this, and thought it was a -- really, we thought it was a magnificent compromise of all different people who had input. And we've had Zoom meetings. And then one of the things that does affect this, I have to say, the pandemic of not having normal meetings, not even having neighborhood meetings, rather having Zoom meetings, and it's just different. But I -- I could -- we could bring evidence of support letters. We could bring in more evidence to you of the different designs, if that would be things that would allow you to say maybe even, you know, you would support it with some other compromises like the additional sidewalks and things, we could do all those things. We'd try to find out a -- something -- is there something in the middle.

MS. LOE: Mr. Stanton, and then Ms. Geuea Jones.

MR. STANTON: I have incredible respect for the staff recommendation, so where I'm at is how do we make this happen to make you guys happy so that he could do what he needs to do, because losing this or not providing this housing is catastrophic to the community. But you guys got to give

something, and everybody has got to bleed, so what is going to take? Is it something that we need to table, which if he needs to table, to come back to the table with you guys and make it a win-win. You come back later, cool. Is there something we can do tonight that moves this in a positive direction, or what are our options, Mr. Zenner?

MR. ZENNER: Now I feel like an applicant. I think Mr. Gebhardt has summed up generally staff's position. We are defending the Code, and the Code clearly identifies for us in our evaluation criteria by which alternative access should be provided to a site. Now, while we do not dis-acknowledge the fact that this has topography associated with it, we believe that there are options and ways in which to meet ADA accessibility, and still retain the site's historical frontage, its presence in the neighborhood, and be able to accomplish the goals that are being desired. I mean, there is a building here that may need some design changes to it in order to fit, but I can't see from a staff perspective that compromising access to the site, which currently has it, is in the best interest of the public. And I appreciate the idea of the sidewalk alternatives, but it still raises concerns from a health, safety, and welfare perspective that you are entering this site through somebody else's parking lot. That just -- as a professional, I cannot see how we are putting people in this class of disability at that disadvantage. That just does not seem appropriate and is not in keeping, I think, with the spirit of the Code. Now it is the Commission's decision and it is your heavy burden that you must determine are we being overprotective or misinterpreting the Code itself. You may agree with us. Council, however, ultimately has that final say. And I think amongst yourselves, as you make your recommendation, weigh that in the back of your mind. Is there something that the applicant has presented that's compelling. Is it compelling enough to change your opinion, or may it be compelling enough to change Council's opinion. I don't want you to think on behalf of Council, I want you think on behalf of yourselves in analyzing what you've heard this evening and what we provided you. But I can't tell you that anything that they do at this point will change our opinion that access through an adjoining property's driveway to a building that is housing disabled individuals is appropriate. I just don't see that from our perspective as being acceptable.

MR. NUERNBERGER: May I ask a question? If -- if the three other buildings, the other 12 units are owned by the same owner, would that change the interpretation of the Code?

MR. ZENNER: At that point, the site is considered a consolidated property. It would be considered a consolidated property, and the entry -- the entry to it would have to have been appropriately designed in order to support that type of activity level. You're starting with a brand-new site. You're leveling a building and you're starting from scratch. I think many examples of where we may have interconnected parking lots in older complexes are a result of projects that have been built, renovated, re-renovated, but never fully torn down and reconstructed. Times have changed and I think our development Code has evolved with that, and the provisions that we have in the Code are designed to yield results that are, from the viewpoint of how the Code was drafted, to benefit the public as a whole, not benefit just an individual property owner. And I think these people are entitled to have an access to their property that their visitors can get to easily without having to go through somebody else's tract of

land.

MR. NUERNBERGER: Yeah. The dilemma is I -- if HUD had just different rules, we would be more than happy to run this as a 25-unit project with one site, and I have -- but I'm trying to figure out how to do that know, you know --

MR. ZENNER: I understand that, but our Code is not -- our Code --

MR. NUERNBERGER: -- because technically, it really is all run as one, but I know, legally, there's two different entities. So if we could somehow figure out a way to combine them into own ownership, then I guess the -- the dilemma is less problematic and that -- boy, that's a big --

MR. TEDDY: Mr. Nuernberger? May I? Is it going to be managed as one, despite the two ownerships?

MR. NUERNBERGER: It is managed as one. Michelle is the site manager for both properties. It is -- all the board members are identically the same. The only different is two corporate entities, so everybody is really all the same in the -- so that's how it operates.

MR. TEDDY: It's more an issue of financing.

MR. NUERNBERGER: Yeah. It's all about HUD -- I can show you all kinds of things where HUD makes two buildings on the same site with different owners. Crazy.

MS. GEUEA JONES: May I?

MS. LOE: Commissioner Geuea Jones?

MS. GEUEA JONES: Thank you. Here's -- bottom line. Here's my question for you. Would you rather us make a motion to table the vote on this case and you keep working with staff, or would you rather us approve a final plat without a design adjustment, and then you either try to get City Council to approve the design adjustments that we denied, or you go to Board of Adjustment and try to get them to approve it, because I -- I mean, I don't see a scenario where your choice is anything other than keep working this process, or let us give you a legal plat and you try to fix the problems later.

MR. NUERNBERGER: I just want to be successful, and I'm not sure I have an answer because I don't know the process here as much as, obviously, others do. And I guess I'd ask --

MR. STANTON: Yeah. Do you need to consult?

MR. NUERNBERGER: Yeah. Can I talk to them a second and come right back? Thank you.

MS. GEUEA JONES: Also, legal, could you write us a nice script for -- for whatever we decide to do?

MR. NUERNBERGER: Right now, we're all -- because we are all in the mood of compromise, we would like to table it, but we wanted to know how long would that be tabled for because of our financing and hoping to be able to eventually close and removing people out and all the things, so we just want to know how long, because we do want to have other people besides just these -- A Civil and bring in additional -- additional material that we did for the last three years that may have not been shared with everybody that it needs to be shared. It still may ultimately say that you have to deny it by the Code, but then at least we've presented it to you and you all have your -- a better understanding of how this group

got to this point, and then you can make your decisions. I feel like we have not given you everything, so --

MS. LOE: I'm going to defer to staff on the timing. Mr. Stanton, did you have a comment?

MR. STANTON: Yeah. I -- and I'm glad you went to get some counsel. I don't want you to table it if you're not intending on making staff happy. I mean, when I see it come back this way, I want staff to say approve, green light, go. If you're not -- if that's not going to be your intention, then we'll just go ahead and vote on the plat and then good luck.

MS. LOE: And I'll second that in that I'm not -- additional information on the same plan probably won't change my mind. I was asking about that, but I'm -- I'm still not convinced. I still support staff's decision at this point.

MR. STANTON: Staff support.

MS. LOE: So it would be a new design. It would have to be a new design. So I'm not sure how much time you need for that.

MR. NUERNBERGER: If -- I mean, I could see us saying, okay, we'll go to the neighborhood and say the parking is going to be back to the north side and we'll move the building we just designed forward, and I don't know how all the other implications of that are, but we may come back and say we tried that and we are back to the same place and -- but we at least spent some time trying to reflect your request. And then if we find the neighborhood will be showing up opposed to that, then, you know --

MS. GEUEA JONES: Well, and that's what I was going to address. I understand that you're sensitive to the neighbors' previous concerns. I would say their concerns about the use of that parking lot may have a lot of different solutions other than put it behind -- on the other side of the building. So assuaging their concerns may be a lot easier than trying to get us to approve something that requires some pretty significant design adjustments and a recommendation of denial from the staff. So that -- that's a balancing act we make a lot on this Commission, but I think the concern about the unwanted visitors, the crime, the things like that, it sounds like you've addressed a lot of it already. And that may be an easier conversation in the long run. But, staff, do we have dates?

MR. ZENNER: I'd first like to ask legal counsel a question, because I think some what may be necessary to potentially move support forward if the design is minimally modified are going to involve offsite improvements. And I -- I -- how would it be possible for us to condition an approval of a plat upon such improvements being made?

MS. THOMPSON: If there are offsite improvements, normally offsite improvements are addressed through -- through a development agreement. And, you know, whether or not there are additional options, and I don't know enough about the ownership structure to -- of these two particular parcels to know if there's a way to -- to keep separate legal ownership but tie it together to a point where this body might be more comfortable with the fact that it's under some form of common ownership. I just don't know enough about the structure to -- to do that. But as far as offsite improvements are concerned, it would be a development agreement.

MR. ZENNER: And with that response, what I would tell you is the typical process for a development agreement's development and -- is normally going to at least be 30 days, possibly 45 in order to generate an agreement, and that is -- and within that period of time would also probably be involved additional re-review of alternatives. I would most likely suggest, given the volumes that we're currently dealing with and the case log and the backlog we have, we're -- we're into the middle of November at that point. It would possibly be the second meeting in November, which is November 18th.

MR. NUERNBERGER: So then we'd be back here, and November 18th is what --

MR. ZENNER: That would be -- it would be tabled to a date certain of November 18th, with revised recommendations and most likely a revised site plan of some nature with the platting action and associated design adjustments if still necessary but may be able to be supported by the Commission. I will tell you it will be a very, very hard challenge, given the way that the Code is written, for staff to be able to change the position that it has established at this point in this hearing. It does not technically meet the Code requirements and, as such, as we have said previously in other cases, we are obligated under the provisions of the Code to recommend denial.

MR. NUERNBERGER: If I can comment to that, then what I'm -- I'm hearing then, if that's the case, then really the only place that we can get relief from the Code would be at the Council meeting where they could then decide whether or not they could approve it or not, rather than here, because I'm just trying to figure out where we would be if we can't -- to your point, and that's what I'm wondering. If we can never actually be approved -- from what you're saying, you're probably still going to deny it, and so we're still going to end up at the same point. Instead of being today, it's going to be two or more months further out before we get to this, so we need to bolster then, you know, our defense of why it still is a good thing, and -- and try to explain to others that maybe we can still get approved.

MS. LOE: Right. So one option would still be to vote on the plat and get that approved, and vote on the design adjustments separately and leave the final decision, if it gets voted down in this body, up to City Council. But you would have a decision on whether or not you could move forward with that from them.

MR. NUERNBERGER: If I can have just a second, and I'll come back.

MS. LOE: All right.

MR. NUERNBERGER: While I am not happy that we can't come to a compromise, and I wish we could, but I think the point is the Code makes it very hard to balance all these compromises. Probably the answer is what you just said is vote on the plat, and then vote on the design adjustments, and we will see what we can do, you know, because I -- why -- why spend 60 more days if still there's going to be end up adjustments because I -- I'm pretty certain I know where the neighborhood is and I know where the Council is a little bit, so I guess we'll -- we'll work. But I wish -- again, my own thought would be, I wish we could come to a compromise, but it doesn't look like it's easy with the Code.

MS. LOE: In think, in some ways, this is a compromise, so --

MR. NUERNBERGER: Okay. Maybe -- yeah. Thank you.



MS. LOE: Any additional questions or comments? Thank you.

MR. NUERNBERGER: Thank you.

MS. LOE: We're going to close public comment.

### **PUBLIC HEARING CLOSED**

MS. LOE: Mr. Zenner, just one point of clarification. If the design adjustment is voted down, does that mandate any deadlines or keep them from bringing the case forward again?

MS. BURNS: At the Council level?

MS. LOE: At the Council level?

MR. ZENNER: Well, the design -- so as I pointed out earlier, there will be two staff reports forwarded from this meeting this evening.

MS. LOE: Okay.

MR. ZENNER: One with a recommendation on the design adjustments, and then one with the recommendation on the final plat. Those are due to be introduced to Council on October 4th with a final reading on October 18th, at which point both items would likely show up under the old business agenda if the design adjustment is denied to afford both an opportunity to be able to be discussed jointly at the City Council level. So it's not going to -- unlike a land-use change, a rezoning action which has a 12-month separation window, platting actions do not.

MS. LOE: Thank you.

MS. THOMPSON: And the process at the Council level is that if -- if the design adjustments are not granted, the applicant is given an opportunity to request a continuance, go back, redraw the plat without them. They will have your guidance one way or the other as to whether or not that should be approved, so -- so it will be in a position to at least move forward without design adjustments without having to restart.

MS. LOE: We need to have you at the meetings more often.

MS. THOMPSON: I wish I could divide myself into 50 different parts, but --

MS. LOE: Mr. Stanton?

MR. STANTON: If my colleagues don't have any other questions, I would like to form a motion. As it relates to Freedom House I, final plat design adjustments, I move to remove the design adjustment notes and approve the final plat subject to minor technical corrections.

MS. GEUEA JONES: I -- sorry. I think we actually need to vote down the design adjustment to get that to City Council.

MS. LOE: Going to vote it both ways.

MR. STANTON: Well, it's two motions, so I was voting on the plat first.

MS. LOE: Vote it with the --

MR. ZENNER: You need to do the design -- Mr. Stanton, the motion should be to make -- to --

MR. STANTON: Affirmative.

MR. ZENNER: -- in the affirmative to approve the design adjustments as motion number one,

and then motion number two, separate after you've completed the voting on the first motion, to recommend approval of the plat.

MR. STANTON: Okay. As it relates to Freedom -- Case 195-2021, Freedom House I final plat design adjustments, I move to approve the final plat and design adjustments.

MS. RUSHING: I thought we were voting on them separately.

MR. STANTON: That's affirmative.

MS. LOE: With the -- the movement is to approve the plat with the design adjustments.

MR. STANTON: Design adjustments.

MS. LOE: Mr. Stanton has made a motion. We need a second. No?

MR. ZENNER: That's still not the correct --

MS. GEUEA JONES: I have a substitute motion.

MS. LOE: All right.

MS. GEUEA JONES: Let's do that. I -- I move, in the matter of Case Number 195-2021, to approve the design adjustments

MS. RUSHING: Second.

MS. LOE: We have a second by Ms. Rushing. Motion on the floor. Any discussion on this motion? Ms. Carroll, may we have roll call, please.

**Roll Call Vote (Voting "yes" is to recommend approval.) Voting No: Ms. Geuea Jones, Ms. Placier, Ms. Kimbell, Ms. Carroll, Ms. Loe, Mr. Stanton, Ms. Burns, Ms. Rushing. Motion fails 8-0.**

MS. LOE: Do you have a second motion?

MS. GEUEA JONES: Yes. I have a motion. In the matter of Case Number 195-2021, Freedom House I final plat, I move to approve the final plat with the condition that the note regarding design adjustments be removed.

MR. STANTON: Second.

MS. LOE: Seconded by Mr. Stanton. We have a motion on the floor. Any discussion on this motion? Seeing none. May we have roll call, please, Ms. Carroll.

**Roll Call Vote (Voting "yes" is to recommend approval.) Voting Yes: Ms. Geuea Jones, Ms. Placier, Ms. Kimbell, Ms. Carroll, Ms. Loe, Mr. Stanton, Ms. Burns, Ms. Rushing. Motion carries 8-0.**

MS. CARROLL: We have eight votes to approve.

MS. LOE: Recommendations will be forwarded as voted. We have -- I've had a request to get through the next case before we take a break, so I'm going to leave you all waiting for break, and we're going to do one more case.

## **VIII. PUBLIC HEARINGS**

### **Case Number 234-2021**

**A request by A Watermark Engineering (agent), on behalf of University Centre, LLC**

**(owner), for a U.S. Bank ATM to be built in the parking lot of the existing Eatwell grocery store at 111 South Providence Road. The property is zoned M-DT (Mixed-Use Downtown). The drive-through component of the ATM is an accessory use which requires a conditional use permit (CUP) in the M-DT zone.**

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

Staff report was given by Ms. Rachel Smith of the Planning and Development Department. Staff recommends approval of the requested CUP to allow a drive-up facility on the site subject to the proposed CUP conditions.

MS. LOE: Thank you, Planner Smith. Before we move on to Commissioner questions, I would like to ask any Commissioner who has had any ex parte related to this case prior to this evening to please share that with the Commission now so we all have the benefit of the same information on the case in front of us. Seeing none. Are there any questions for staff? Commissioner Burns?

MS. BURNS: Ms. Smith, did you -- I notice that the traffic will be coming north to south to access the ATM machine.

MS. SMITH: Yes.

MS. BURNS: So you would have to be heading south on Providence Road to turn onto Cherry Street and then come into the parking lot. No?

MS. SMITH: No. I think maybe I wasn't clear when I said it that way. So I meant that the ATM, you actually go here, and then you drive north to south in front of ATM. So the turning movement would be -- you could head north on Providence, make a left here, then you make a left here, and then you make another left here, and then you head north to south. So there is no direct access on Providence. That would be expressly prohibited under not just the CUP criteria, but access restrictions, et cetera. So, no. That is just not an option, and we reiterated that with the --

MS. BURNS: No. I'm sorry. I was just trying to figure out how people are going to access this ATM machine --

MS. SMITH: Uh-huh.

MS. BURNS: -- when they're cruising through a parking lot. I mean, I shop at this grocery store periodically, and the parking lot is already kind of challenging simply because they aren't angle-in spots. But you're forcing traffic into a parking lot where you have people with small children. I'm just trying to figure out the traffic flow as it gets in there to access the ATM machine. I'm concerned about it coming up -- is that Locust that's between Eatwell and the new Cane's that's being developed, because if you drive up, then you're going to have to drive past Eatwell. The idea is that you would go all the way up, or would you stay further to the west?

MR. ZENNER: This is the site plan, so as Ms. Bacon -- Smith pointed out -- I've got to get over that. As Ms. Smith pointed out, the bypass lane is to the Eatwell side, which is actually an existing drive lane in the parking lot. So there are two ways of being able to enter the parking lot. There is one from Cherry Street.

MS. BURNS: Right.

MR. ZENNER: And if you make the -- heading south, you make the left, you make another left to get into the parking lot, and then you make a right to get into the drive-through lane. If you come in off of Locust up the driveway into the Eatwell facility, you're going to pass the -- you'll pass Raising Cane's entry --

MS. BURNS: Uh-huh.

MR. ZENNER: -- the new entry, and you will turn right into the parking lot, parallel back, you're backtrack, in essence, down the Locust Street frontage into this drive aisle, into this existing two-way traffic aisle generally, and then parallel Providence, make a right, and get into the queue. So those are your two points of access, well away from where the general pedestrian activity would be for Eatwell itself.

MS. BURNS: Can you go back to the photograph that showed the cars and the proximity, the actual photograph, because in your site plan, the car -- I didn't know if Eatwell was going to be blocking off some of those parking spaces, because currently you are seeing there are cars that are very close to where a car would be driving to access the ATM machine.

MR. ZENNER: And that's a site management-related issue. I mean, while U.S. Bank is looking at leasing this parcel from the ownership group, which is the Kroenke Group, if I am not incorrect, they patrol how this site is used and the parking allocation. The parking for Eatwell in this lot is well in excess, so the loss of these parking spaces or the barricading off of them to ensure that the head-in spaces to Providence aren't in the -- aren't in the exit lane actually of the drive-through, all of that will be resolved as part of a site planning issue, or a site development issue, but the drive aisle that you can see in this aerial that exists right here is the drive aisle that is -- this is a two-way drive aisle providing access to the perpendicular parking to the drive aisle, and then that parking which is directly accessed off of it 90 degree head in to Providence. So all of this is -- you know, you're -- your main parking field is in the opposite -- it's in the opposite direction. You're accessing it in the opposite direction of the drive aisle for the through traffic on the site.

MS. BURNS: Okay. Thank you.

MS. LOE: Ms. Placier?

MS. PLACIER: Well, then tell us what happens when somebody exits the drive-through. They can either make a hard right and go back to Cherry, or they could go Locust, or --

MS. SMITH: They would have maneuver to go back that way.

MR. ZENNER: I would -- I would probably tell you if you're coming in, if you're trying to exit it's either you're going to exit out -- you could make, Ms. Placier, as you say, that hard right, but the turning radius to probably do that is really not existing, so what you're probably going to end up doing is you would end up exiting the drive-through and you would either come back up a lane that has the parking on either side of it and go back out. I -- given that the signalized intersection is at Locust, I would imagine that the -- the majority of the exiting trips are going to be wanting to go to the signalized intersection just because it's controlled and you have better ways of getting in and out with breaks in the traffic. But, I

mean, that's all going to be depending upon the user. If you drive a Prius or a little -- one of those little cars, a smart car, you could probably make the turn without a problem. I don't know if I would want to accelerate off of Cherry Street though trying to get onto Providence. So, I mean, ultimately, that would be probably the -- you know, it's going to be a user choice. A standard sedan may or may not be able to make that turn.

MS. SMITH: Not with his RV. I did say we did spend some time looking at the overall circulation of the site and the location thereof, and whether an ATM should be here at all is up to you. Right? That's the question. But in terms of where, if it is going to go on this site somewhere, we felt like this was probably the best option in order to limit interactions with other cars' turning movements and pedestrians. Also, too, you know, the UDC definitely has a strong proponent of putting ATMs and service-type facilities behind buildings, and that is just not an option on this site. So it's going to be somewhere in the parking lot if it's going to be on this site.

MS. LOE: Ms. Carroll?

MS. CARROLL: All right. Can you show me where you think the primary pedestrian activity is occurring on this site?

MR. ZENNER: The primary level of pedestrian activity, I -- that -- that depends. I mean, you get a lot probably coming up Cherry Street and you'll have it coming up -- the new pedestrian connection that was required as a part of Raising Cane's is going to generate a lot of traffic on the south side of the entry road to get you to the center, the shopping center, as well as to get you to the remaining undeveloped commercial lots to the south. While the public sidewalk infrastructure exists here, being able to get across from the development on this side, from Flat Branch Park and everything else really is not made convenient at this point unless you go all the way back up to the Providence-Broadway intersection, or you come down to Locust, which both intersections have the ped-heads, the audible ped heads. The actual improvements to the intersection at Locust and Providence were also a condition of the Raising Cane site. So I think as Rachel points out, when you look where the placement of this facility is and tucked in this corner, given where the normal flow of -- the higher flow of pedestrian traffic may come from downtown, the campus. It's actually coming up the Locust corridor, I would say, and, therefore, where this is placed, it pushes it up to an area where you may not have as much pedestrian conflict. To Ms. Burns' concern, I think that the exiting traffic that comes out to get to a vehicle parked in this area here really won't necessarily have to contend with the movements here except probably in exceptional circumstances when the parking lot is filled, and you're having to park further away from the store. That may be the only time and where we would see possibly some type of interaction, but, I mean, we have an ATM sitting out off of Stadium Boulevard that used to be in front of the gas station at the corner of Ash and Stadium that basically acts -- it parallels Stadium Boulevard. We have an ATM sitting outside the Dairy Queen off of Forum across from Schnuck's. So, I mean, I think that it's not that uncommon in an environment where you may have pedestrian interaction with a vehicular use and, therefore, all things being considered equal, trying to keep this as isolated as we could and functioning

within the existing infrastructure layout, this seems to be somewhat of a -- of a decent location for this type of activity.

MS. CARROLL: And the drive-through for the -- I'm forgetting the name -- the chicken -- the fast food.

MS. LOE: Raising Cane's.

MS. CARROLL: Raising Cane's. Thank you. Raising Cane's, when they went through, they were required to build a sidewalk along the south side of that entrance driveway.

MR. ZENNER: That is correct.

MS. SMITH: Correct.

MS. RUSHING: So that will direct the pedestrians. Most of the pedestrians I've seen come off of Locust, so that sidewalk on the south should direct pedestrians out of the parking lot on the --

MS. SMITH: We would -- we would hope so.

MS. RUSHING: -- on Eatwell.

MS. CARROLL: Does that connect both to the Raising Cane's parking lot and --

MS. LOE: I don't know. It -- sorry. Okay.

MR. ZENNER: This aerial does not show it. What I can guarantee you and say with certainty is that the sidewalk went up to the point at which the internal connection road that comes off of the Locust Street drive ties back in down just -- just to the north of Complete Automotive. So the sidewalk is along this entire southern boundary. I cannot recall if the condition was to carry it all the way up to basically Eatwell. Keeping in mind as well, the site back here is not currently -- has not been submitted for development. It is in the M-DT, as well. We don't know what the overall site development for the remaining undeveloped acreage here will be.

MS. SMITH: It may need sidewalk connection, as well. We did not propose sidewalk connection from the Providence sidewalk here because this is an autocentric use, and we didn't -- as part of the conversation, I think, with a previous case this evening, we didn't want pedestrians to come up through the parking lot. Right? Especially if there's going to be pedestrian facilities down here, we really wanted them to utilize the pedestrian facilities. Also, there is a -- quite a bit of a grade. I think it's 15 to 20 feet right here, and so it would be a major switchback to an autocentric use and then dumping pedestrians where they -- it's not best for them to be.

MS. CARROLL: Yeah. I'm more worried about increased car trips --

MS. SMITH: Uh-huh. Absolutely.

MS. CARROLL: -- and a parking lot that's already, honestly, a bit chaotic, as Tootie pointed out. These were my same comments for the Raising Cane's. I feel that burying it between two different drive-through -- autocentric drive-through CUPs does take away from the walkable environment. Sidewalk helps. I think it will be less of an impact than Raising Cane's.

MS. LOE: Additional comments, Ms. Carroll?

MS. CARROLL: That's all.

MS. LOE: Any additional questions for staff? Seeing none. We'll open up the floor to public comment.

#### **PUBLIC HEARING OPENED**

MS. LOE: If anyone has public comment, please come up to the podium and we need your name and address for the record. We do limit you to six minutes if you're speaking for a group, and three minutes if you're speaking individually. We have scared everyone into silence. All right. We will move on and close public comment.

#### **PUBLIC HEARING CLOSED**

MS. LOE: Commission discussion? Commissioner Geuea Jones?

MS. GEUEA JONES: I just wanted to point out that while I recognize that, especially given the new Gateway Park, or whatever we're calling that, there will be more pedestrian traffic. Allowing them to do this improves the site greatly with regard to green space. And -- and, to me, that is a benefit that -- that is definitely worth considering even if it does mean that we're encouraging cars to drive in and out of -- of this parking lot, which they're already doing, so that's my comment.

MS. LOE: Additional comments?

MS. CARROLL: A staff question.

MS. LOE: Commissioner Carroll?

MS. CARROLL: Sorry. You mentioned food deserts and the need to have this in the M-DT, which I agree with. It's quite a need. Is there -- is there a risk of having a food desert without an ATM?

MS. SMITH: I don't know the answer to that.

MS. CARROLL: Okay.

MS. SMITH: I think that if you make -- if a site is more revenue producing, there's maybe more support for it. Right? When Lucky's went out, we were very concerned. Ideally, in a perfect world, this whole site would redevelop with a super grocery store that's oriented a little bit differently, but we've -- I've served on the CHIP, which is the health improvement comp plan basically for the health department, and we've looked at this -- this area before Lucky's came in and the other grocery stores in the area, and it's very underserved. And without this, it's a key link in the -- in the chain.

MS. CARROLL: Yeah. Just trying to gain some insight.

MS. SMITH: And then to -- to your point, too. We -- we did talk with them and we greatly preferred a landscape street wall, and that's what they went with for the same points that you pointed out.

MS. LOE: Commissioner Burns?

MS. BURNS: No. I think the landscaping is great, too. I just -- I really have concerns about forcing traffic back into a parking area, particularly this one. Were there any considerations for a walk-up ATM maybe associated with Eatwell, inside or outside?

MS. SMITH: I'm going to let the applicant talk to that. This was this request.

MS. BURNS: Because I understand, yeah.

MS. SMITH: I think, and certainly in the very core of the downtown, that might be the only option

staff would be able to support. Saying that, yeah, that it's not that the cat has gotten out of the bag, but this is a pretty suburban site already, and so we take that into consideration.

MS. LOE: Ms. -- Robbin -- Ms. Kimbell?

MS. KIMBELL: I would agree with Commissioner Burns that the green space is great. My -- my concern is people walking and the traffic up from Locust. I mean, you've got it up from the chicken restaurant, up from around there. I mean, you've got people coming in from Locust and going down to the ATM. So I'm just a little concerned about the traffic flow. So how can -- I mean, what was -- was there a study done on that? I mean, how --

MS. SMITH: So the traffic engineer looked at this. So the exist -- there is existing traffic flow already that's two way. Right? So we've got a dedicated cross axis easement that we wouldn't require if it wasn't there. Right? Because we want to make sure that all lots have equal access. So we looked at the traffic engineer, and looking at the site, understanding the C-P process, we did not want any direct access to Providence. It's can we live with there could potentially be some conflict. Now I have all that information on how overparked they are because I feel like that was a relevant piece to the puzzle, part of the conversation of where people are likely to park relative to demand. And so this site is greatly overparked. You can see that there's a couple of parked -- cars parked here. Maybe they're employees or something, but, for the most part, this has been unutilized anyways, and given how much parking they have available to them, we really think that these spots are going to be absorbed first. And that's really why on the site plan and in the staff report, I do talk about how much parking would normally be required for a grocery store, how much they have, and they're greatly in excess, even after losing the 13 spots. So we did think about it in that way, as well. And I provided some information from the applicant on they've got two other U.S. Bank ATMs that are directly adjacent or near grocery stores, provided some volume data by time of day. Traffic counts were relatively low. It is hard to capture on how many of those trips were folks just getting cash because they're going to the grocery store. I think a lot of them are probably that, but I -- you know, I do agree that this is an autocentric use in an environment that we do want to be pedestrian oriented. That is definitely part of the conversation. It's not atypical to have an ATM in a grocery or a larger commercial shopping center. The traffic engineer did look at it and was okay with this design.

MS. KIMBELL: Thank you.

MS. LOE: Mr. Stanton?

MR. STANTON: This is right in my neighborhood. I mean, let me let you all know, this is a perfect place. Don't worry about the traffic. Nobody parks over there unless they either work there or in construction because that's too far away and people are too lazy to walk from way over there to get to Eatwell, I promise you. And in my more pedestrian days that -- don't worry about that. Don't worry about that traffic. Don't worry about extra cars. None of that exists. I'm here to tell you because I personally -- this is in my hood. I personally tell you that's all good. Now, people are not going to walk up that hill to get to the ATM. They're not going to do it. They're going to take that. They're not going



to make that sharp turn and go back on Cherry. They're not going to do it. They're going to come right on down into Locust, that's how they're going to do it. I promise you. Why? Because I live there.

MS. BURNS: I live there, too. I live there, too. It's in my hood.

MR. STANTON: We'll go. We'll go. The only thing people may do is come up, back up to Eatwell. That's -- you know, that's the worst thing they'll do. But I -- I plan to use it. I'm probably not even going to drive. I'm just going to walk up there and use it, and if you're a car, you'll just have to wait for my butt to move, and you'll be okay. So I think it's a good spot. I think it adds more use to that because those parking spots are right there. I mean, I've seen construction companies rent that spot -- that space; you know what I mean? It's not that -- you know, they've got plenty of parking, and most people are up by the building. So I plan to support it.

MS. LOE: Okay. Ms. Carroll? Were we wrapping things up here? We still have a break and two cases to get through?

MS. CARROLL: Yes.

MR. STANTON: Oh, we need a public hearing.

MS. LOE: No. We've done public hearing. We are on Commission discussion. I'm waiting for a motion.

MS. GEUEA JONES: I'm ready to make one.

MS. LOE: Ms. Geuea Jones?

MS. GEUEA JONES: In the matter of Case Number 234-2021, U.S. Bank drive-through, 113 South Providence CUP, I move to approve the requested CUP to allow the facility on the site subject to the proposed CUP conditions which are Exhibit A.

MS. SMITH: Just A through G would be right.

MS. GEUEA JONES: A through G, proposed CUP conditions A through G.

MS. LOE: Motion by Commissioner Geuea Jones.

MS. RUSHING: Second.

MS. LOE: Second by Commissioner Rushing. We have a motion on the floor. Any discussion on this motion? See, there's always room for more discussion. I will never really shut you down. Seeing none. May we have roll call, please, Ms. Carroll.

**Roll Call Vote (Voting "yes" is to recommend approval). Voting yes: Ms. Geuea Jones, Ms. Placier, Ms. Kimbell, Ms. Carroll, Ms. Loe, Mr. Stanton, Ms. Rushing. Voting No: Ms. Burns. Motion carries 7-1.**

MS. CARROLL: We have seven votes to approve, and one to deny.

MS. LOE: Recommendation for approval will be forwarded to City Council. And with that, you get your promised five-minute break.

(Off the record)

MS. LOE: Back to order.

**Case # 255-2021**

**A request by A Civil Group (agent), on behalf of Merle Jr. and Charlotte Smarr (owners), to rezone Lot 1 of Centerstate Plat 6 from PD (Planned Development) to M-C (Mixed-Use Corridor). The 1.5-acre property is addressed 3310 Vandiver Drive.**

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

Staff report was given by Ms. Rachel Smith of the Planning and Development Department. Staff recommends approval of the requested rezoning from PD to M-C as requested.

MS. LOE: Thank you, Planner Smith. Before we move on to questions for staff, I would like to ask any Commissioner who has had any ex parte related to the case in front of us to please share that with the Commission, so all Commissioners have the benefit of the same information on the case. Seeing none. Are there any questions for staff? I see none. Great. With that, we will move into public comment.

**PUBLIC HEARING OPENED.**

MR. GEBHARDT: Good evening. My name is Jay Gebhardt, a civil engineer for A Civil Group, 3401 Broadway Business Park Court. I'm here to just answer questions.

MS. LOE: Any questions for Mr. Gebhardt?

MR. GEBHARDT: Thank you.

MS. LOE: Thank you, Mr. Gebhardt. Any additional public comment? Seeing none, we will close public comment.

**PUBLIC HEARING CLOSED**

MS. LOE: Commission, discussion? Commissioner Burns?

MS. BURNS: If there is no additional discussion, I will make a motion. In Case 255-2021, 3310 Vandiver Drive rezoning, I recommend approval of the requested rezoning from PD to M-C.

MR. STANTON: Second.

MS. LOE: Moved by Commissioner Burns; seconded by Commissioner Stanton. We have a motion on the floor. Any discussion on that motion? Seeing none. Ms. Carroll, may we have roll call, please.

**Roll Call Vote (Voting "yes" is to recommend approval.) Voting Yes: Ms. Geuea Jones, Ms. Placier, Ms. Kimbell, Ms. Carroll, Ms. Loe, Mr. Stanton, Ms. Burns, Ms. Rushing. Motion carries 8-0.**

MS. CARROLL: We have eight motion -- votes to approve.

MS. LOE: Recommendation for approval will be forwarded to City Council. That brings us to our last case for this evening.

**Case # 256-2021**

**A request by A Civil Group (agent), on behalf of Garry Lewis (owner), for approval of the rezoning of approximately 17.9 acres in the development common known as "Corporate Lake" generally bounded by Brandon Woods Street on the west, Providence Road on the east, North**

**Cedar Lake Drive on the north and Southampton Drive on the south. The existing properties are zoned a mix of M-OF (Mixed-Use Office), M-N (Mixed-Use Neighborhood), M-C (Mixed-Use Corridor), and PD (Planned Development). The applicant is requesting the properties to be rezoning to R-MF (Multiple-family Dwelling) district, M-C, and M-N.**

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 of:

1. R-MF zoning on Tracts 1 and 2
2. M-C zoning on Tracts 3 and 4
3. M-N zoning on Tracts 5 through 10

Denial of:

1. M-C zoning on Tract 11

Alternatively, if the Commission desires to eliminate the "split-zoning" on Tract 11 staff recommends:

1. Only rezoning that portion presently zoned M-OF to the M-N district.
2. Require that a revised legal description be provided for Tract 11 consistent with the modified area to be rezoned.

MS. LOE: Thank you, Planner Palmer. Before we move on to questions for staff, I would like to ask any Commissioner who has had any ex parte related to this case to please share that with the Commission, so all Commissioners have the benefit of the same information on the case in front of us. Seeing none. Are there any questions for staff? Commissioner Geuea Jones, then Commissioner Placier.

MS. GEUEA JONES: So the -- the lots that are PD, that -- that planned development was done in 1990 during annexation or when was that?

MR. PALMER: No. They were done individually between annexation and now. They're --

MS. GEUEA JONES: But all prior to the UDC?

MR. PALMER: I believe so. Yeah.

MS. GEUEA JONES: Okay. Thank you.

MS. LOE: Commissioner Placier?

MS. PLACIER: Uh-huh. Yes. We have before us some of the public comment submitted, and there was just a one-line response from the school district saying CPS have no issue with this rezoning, referring to tract 11 being rezoned as a convenience store -- well, relating to tract 11, did they at that point have information that it would be a convenience store which could potentially probably sell things that high schoolers would possibly flock to?

MR. PALMER: I don't have an answer to that, but perhaps Mr. Gebhardt would -- would have -- shed a little bit of light on that.

MS. LOE: Any additional questions for staff? Seeing none. We will open up the floor to public

comment.

**PUBLIC HEARING OPENED.**

MR. GEBHARDT: Good evening. My name is Jay Gebhardt. I'm a civil engineer and land surveyor with A Civil Group, 3401 Broadway Business Park Court. Ms. Placier, in answer to your question, I contacted Mr. Yearwood, the superintendent, and he assigned this to Randall Gooch, who wrote that email. It was explained -- and my client, Garry Lewis, sent a letter to the school explaining there would be a convenience store and his desire is to have up to four gas pumps and four electric charging stations, and so they were -- they are aware of that. And just so everyone is clear, that corner is zoned M-N now, and all the things that you are worried about being sold in the store can be sold there today.

MS. PLACIER: Absolutely.

MR. GEBHARDT: So the only thing that is different is Mr. Lewis wants to own and operate a convenience store here for the neighborhood. So again, I'm working for Mr. Lewis, who owns all these tracts. This is really a request to bring this site up to the standards of the new code and eliminate the hodgepodge of zoning that exists on the site today. When you look at the zoning on this, it's kind of all over the place, so I'm attempting here to clean everything up and bring it all up to the current code. Since staff is recommending approval on tracts one through ten, I want to talk about tract 11 with you guys. And so really this request for tract 11 is to decide whether this store -- this convenience store should have electric charging stations and gas pumps for the residents of the area. And those residents -- as for the neighborhood, this would serve all of the homes with access to South Hampton, which includes 360-so apartments owned by Mr. Lewis, all of Cedar Lake subdivision, all of Cedar Lake South subdivision, Bedford Walk subdivision, the Highlands, Woodrail South, and Heritage Estates. It's a huge area here that feeds on South Hampton. So really the request again, keep in mind, is for a convenience store that would sell -- have up to four pumps and four charging stations. Also, I would like you guys to keep in mind that a traffic study will be required by the UDC regardless of the use on this property because we're going to exceed the 100 trips per AM or PM peak, which is the threshold. So I know traffic out here with the students and young drivers and that is a concern, but that is all going to be taken into account in a thorough traffic study of this. And when we do a traffic study on tract 11, they are going to look at all the uses in this general area to determine the traffic flow. And since Mr. Lewis owns almost all of it and plans on keeping all of it, it's -- it's in his interest to do this. Just like my previous site at the Fringe Boutique, this site is limited in size. Staff didn't bring that up in this case, but it's a pretty small tract, plus there is about a quarter acre of this tract that's in the lake. So there's -- there's really limitations on what you can do with this as far as the obnoxious uses in M-C that staff is worried about. Again, Mr. Lewis is going to own this store and manage it. The lot won't be sold, and we're downzoning several tracts as a trade off for approximately four vehicle charging stations and four gas pumps. And we've already talked about Columbia Public Schools. We talked to our only real neighbor, which is Mr. Grossnickle on the east side of Executive Drive, and he is in full support of this request. And his land

is zoned PD, and he is allowed C-3 uses on that. So this would not be an island of M-C uses, per se, because the PD zone across the street allows it. So having said that, I would like to answer any questions and move forward, if we can, and go home.

MS. LOE: Any questions? Commissioner Burns?

MS. BURNS: We have correspondence from Mr. and Mrs. Grossnickle in opposition, I thought. Is it so late that I'm not reading that correctly? It -- Skip and Daisy have sent a correspondence that they were not --

MR. GEBHARDT: That's news to me. They didn't -- last time I talked to them, they were in favor of it, so I was not aware of that.

MS. BURNS: Okay. Thank you. I was surprised when you said that because we have this --

MR. GEBHARDT: Right. No. I wasn't aware of that. I'm sorry.

MS. PLACIER: And it's dated today.

MR. PALMER: Yeah. I was going to say that all of those were received today, so they were printed at 4:30.

MS. LOE: So since you don't appear to have received this, Mr. Gebhardt, there also was a correspondence from the Cedar Lake Homeowners Association that identifies opposition, the email you forwarded from Randall Gooch, which identifies no issue, and then a letter from The Columbia Performing Arts Center general counsel, which identifies issues, and the Grossnickles' communication identifies a support [sic] and share their concerns identified in the letter. Any other questions for Mr. Gebhardt?

MS. BURNS: I'm just making sure that I'm looking at tract 11 that -- on what we see on the screen here. It's -- the corner of it, I guess that would be what the southwest, yes. Thank you. Just making sure. Thank you.

MS. LOE: Any additional questions? Commissioner Geuea Jones?

MS. GEUEA JONES: So the -- staff, if you'll go back, Rusty, to the recommendation page. What do you think about the alternative recommendation with you requesting a CUP to have the gas pumps, because you could open the convenience store portion under M-N and get a CUP for the gas pumps.

MR. GEBHARDT: That's correct. My client has specifically told me that he would like to have M-C and not have to go through that extra step and that process because we're already subjecting ourselves to the UDC when we don't have to. And so he feels like he has given up enough that he doesn't need to do that. You may not agree with that, but that's his feelings.

MS. GEUEA JONES: Thank you.

MR. GEBHARDT: Uh-huh.

MS. LOE: Any additional questions? Mr. Gebhardt, so just for my clarification, the only uses that your client is interested in for tract 11 that aren't allowed under the M-N would be the gas pumps? Could he do the convenience store uses he wants under M-N?

MR. GEBHARDT: Yes.

MS. LOE: All right.

MR. GEBHARDT: Yeah. It's only about the gas pumps and the electric -- he -- he's -- he wants to try to put in some electric charging stations because he thinks that's going to be something in the future that people are going to want. And since that is not allowed in M-N also, even if he just chose to do the electric charging stations and not the gas pumps, it still needs M-C zoning for that .

MS. LOE: And the other --

MR. GEBHARDT: Or -- or a conditional use permit.

MS. LOE: The other M-C sites aren't attractive?

MR. GEBHARDT: They're not on the major corridor. It's not where stores like this thrive.

MS. LOE: Well, we're not talking convenience store now, we're just talking the gas pumps, which would be allowed in the M-C. You're really only requesting the M-C for the gas pumps.

MR. GEBHARDT: That's right.

MS. LOE: Right.

MR. GEBHARDT: Right.

MS. LOE: So he doesn't want to locate the gas pumps on the other M-C zoned lots?

MR. GEBHARDT: It really wouldn't really make a lot of sense to have them because they're the loss leader that brings people into the store. That's -- having separate from the store would not make a lot of sense. But, you know -- and to locate the store on those interior M-C pieces, you know, the one on North Cedar Lake Drive is -- fronts on Providence, but it really has no direct access to Providence. It's limited to the north, and then there is one access to the south there. If that went out to Providence, that's where we would put the -- be requesting to put the store, but we just feel like the corner of Executive and South Hampton is the major corridor for that.

MS. LOE: Thank you. Any additional questions for this speaker. I see none. Thank you, Mr. Gebhardt.

MR. GEBHARDT: Thank you.

MR. SCHEPERS: My name is Chris Schepers; I live at 21 North Cedar Lake, which is in tract 1, I believe. I don't really have a problem with a lot of these initial changes -- the reasoning for, like, tracts one, two -- one and two and three and four. I am really concerned at the commercial rezoning that we're talking about here. While South Hampton is being described as a thruway, if you're familiar with the area, it is just one-way or a two-lane street back and forth with traffic. And during the morning hours, rush hour, and when the high schoolers are getting in and out of school, it gets very busy there, and I think any major development in that area is going to be very problematic. And if you're talking about rezoning and putting a gas station there on that corner, you're going to be looking at accidents. You're almost already looking at accidents there on a daily situation. And I know it was said that a lot of it is going to be addressed in the traffic analysis, but I want to get that out in front of it right now.

MS. LOE: Thank you. Any questions for this speaker? Excuse me. We have questions.

MR. SCHEPERS: Oh, I'm sorry.

MS. LOE: This is the best part.

MR. SCHEPERS: It's late.

MS. LOE: Sorry.

MS. GEUEA JONES: Thank you for your patience.

MR. SCHEPERS: Yes.

MS. LOE: Commissioner Geuea Jones?

MS. GEUEA JONES: Thank you. So you're just concerned about the corner of South Hampton and Executive, that lot? You don't --

MR. SCHEPERS: That is my primary concern coming to this meeting today. The --

MS. GEUEA JONES: Please speak into the microphone, sir.

MR. SCHEPERS: Yeah. I'm sorry. That's my primary concern coming here and sitting through the meeting and kind of getting fully informed of it because there is not a lot -- the tracts one and two are much like it was already indicated. There are already multi-dwelling homes.

MS. GEUEA JONES: Yes.

MR. SCHEPERS: That's what they are. And the commercial zoning there in that general area seems to be developing in a way that's kind of natural. There's coffee shops, some business offices, and all of that stuff is appropriate and conducive to the area. I'm more concerned as that area becomes more developed, we are going to see more convenience stores, more access, more issues with parking is starting to creep up in that area. And, yeah, tract 11 and then I -- there's nothing that we can do about the areas that are already zoned commercially and allow everything, but -- but upzoning is my biggest concern here at this point.

MS. GEUEA JONES: Okay.

MS. LOE: Thank you. Additional questions for this speaker? I see none at this time. Thank you.

MR. SCHEPERS: Thank you.

MR. OTTO: My name is Dick Otto, 704 Idlewood Court, which is in the Cedar Lake subdivision, where my wife and I have lived for over 40 years. I have the pleasure -- I have had the pleasure of serving on the homeowners' association as president, vice president, secretary and treasurer at different times, and Columbia has been my home for over 50 years. First and foremost, I wish to thank each member of this Planning and Zoning Commission for their much needed service to our community. Having served on the Boone County Regional Sewer District for some 13 years, I know the number of compliments you get and you might actually receive are damn few and far between, but I know you just are doing a good civil job. So please understand that this is meant to be a real compliment and a real thank you. I do mean that. I very much appreciate the dilemma that Mr. Lewis finds himself in with multiple tracts and parcels with split zoning. I would only point out that the original layout of this property originated with Mr. Lewis and not with you or any other public entity. There are consequences to ones' plans and actions. Peter Koukola, the current president of Cedar Lake Homeowners Association, wrote

a letter yesterday, which I hope is in your packet expressing our concerns regarding the requested rezoning. Essentially, the Cedar Lake Homeowners Association is opposed to tract 11, the development of a gas station or fuel center with a convenience store. I know it is not your responsibility to determine the need for another convenience store in our neighborhood, but, if I may, I would like to share an observation. I had the opportunity to be in town this morning for a meeting, and I had to make sure the meeting was scheduled so I didn't -- was not fighting with the Rock Bridge students trying to get to school, or I did have the option of going north on Bethel. That is where you fight the mothers and the fathers dropping off the kids going to school. So it's a timing issue. And these traffic jams are a twice daily occurrence on both South Hampton and Bethel Street when school is in session. When I returned home today around noon, I hit the lights just right, the traffic lights, and noted the following -- and I hit it just right because I hit red lights at each of them. Okay. At Green Meadows, if you look off to the east, and there's Macadoodles and their service station and liquor store -- convenience store. Look off to the west, and I see the Phillips 66 convenience store next to Jimmy's restaurant there. So -- and I move on to the next light, and down it, down at Grindstone and Nifong. I look to the left -- let's see. I look to the west and I see the Phillips 66 convenience station down there that has the car wash next to it and I know directly across the street from it is MFA Break Time with the Jiffy Lube next to it -- convenient. I also then look to the east and I could see the Hyvee convenience store. I cannot see the Break Time that is farther down on Nifong, but, you know, the one across from WalMart. So there was six convenience stores within a mile or so of the property that is the subject of this discussion, this rezoning. Six. I would like you to know that we -- I say we, Cedar Lake Homeowners Association, Cedar Lake people, are very proud of many things on our end of town, including Bethel Park, Rock Bridge High School, Gentry Middle School, Rock Bridge Elementary School, the Columbia Public School Center of Responsive Education, the CORE, out there, all tried points that within a -- basically a half mile or so of this rezoning of tract 11. An additional convenience store I can assure you will not be a pride point for our neighborhood. So anyway, I thank you for allowing me to make these concerns known to you. I would be happy to answer any questions to the best of my ability, and I wish you good luck.

MS. LOE: Thank you for your comments. Are there any questions for this speaker?  
Commissioner Burns?

MS. BURNS: Mr. Otto, I had a question for you. There are two other tracts, three and four, that are proposed for M-C zoning. Does your homeowners' association have issue with those?

MR. OTTO: No.

MS. BURNS: Okay.

MR. OTTO: No. It's -- it's really going to that corner up there, and actually on that corner they do have a pedestrian walkway. You can push the light or push the -- and you'll get a flashing light. High school students don't seem to know how to push that button because there is more of them running across there without a flashing light than should be, should occur. So we're concerned about we're down river, downstream from a possible spill, gasoline spill. We don't want that in our lake. We don't want



that anywhere. Okay? And we're also concerned with the pedestrians through there. And if you want to have a bumper car experience, please come out there at 4:00 when the school is getting out and try to turn off of Providence onto South Hampton, because there's going to be cars that are turning right and right getting on the outer road, there are going to be cars trying to go straight. You're going to have traffic coming out of the school. And it's just a mess. It's just a terrible mess, and we don't need to compound that with putting a convenience store on that corner. That's our position.

MS. LOE: Any additional questions for this speaker? I see none at this time. Thank you.

MR. OTTO: Thank you.

MS. LOE: I think that covers all of our remaining public, so I'm going to close public comment.

#### **PUBLIC HEARING CLOSED**

MS. LOE: Commission comment?

MS. GEUEA JONES: All right.

MS. LOE: Commissioner Geuea Jones?

MS. GEUEA JONES: If no one has any comment, I will try to wade through these motions.

Staff, I -- can we combine the way that they are listed here?

MR. PALMER: I think that's fine.

MS. GEUEA JONES: Yeah. So I don't have to do 11 votes, I can do four?

MR. PALMER: I would say if you wanted to do all of this, you could do three.

MS. GEUEA JONES: Then I should start with --

MR. PALMER: I thought they would have to deny --

MS. GEUEA JONES: I'll just do it by zoning.

MS. BURNS: That's -- I think that's --

MR. ZENNER: Do it --

MS. GEUEA JONES: Yeah.

MR. ZENNER: Do it by the R-MF, the M-C --

MS. GEUEA JONES: Yes.

MR. ZENNER: -- and the M-N --

MS. GEUEA JONES: Yeah. Yeah.

MR. ZENNER: -- you're recommending. And then if you're recommending denial on a tract, that's --

MS. GEUEA JONES: In the matter of Case 256-2021, Corporate Lake rezonings, I move to approve R-MF zoning on tracts one and two, as described in the staff report.

MS. RUSHING: Second.

MS. LOE: Second by Ms. Rushing. We have a motion on the floor. Any discussion on this motion -- this R-MF on tracts one and two? Seeing none. Ms. Carroll, may we have roll call, please.

**Roll Call Vote (Voting "yes" is to recommend approval.) Voting Yes: Ms. Geuea Jones, Ms. Placier, Ms. Kimbell, Ms. Carroll, Ms. Loe, Mr. Stanton, Ms. Burns, Ms. Rushing. Motion**

**carries 8-0.**

MS. CARROLL: We have eight votes to approve; the motion carries.

MS. GEUEA JONES: I have a motion.

MS. LOE: Commissioner Geuea Jones. Sorry.

MS. GEUEA JONES: In the matter of Case 256-2021, Corporate Lake rezonings, I move to approve M-C zoning on tracts three and four, as described in the staff report.

MS. RUSHING: Second.

MS. LOE: Seconded by Ms. Rushing. Any discussion on this motion? This is M-C on tracts three and four. Seeing no discussion. Ms. Carroll, may we have roll call, please.

**Roll Call Vote (Voting "yes" is to recommend approval.) Voting Yes: Ms. Geuea Jones, Ms. Placier, Ms. Kimbell, Ms. Carroll, Ms. Loe, Mr. Stanton, Ms. Burns, Ms. Rushing. Motion carries 8-0.**

MS. CARROLL: We have eight votes to approve.

MS. LOE: Commissioner Geuea Jones?

MS. GEUEA JONES: I have a motion. In the matter of Case 256-2021, Corporate Lake rezonings, I move to approve M-N zoning on tracts five through ten, as described in the staff report.

MR. STANTON: Second.

MS. LOE: Moved by Commissioner Geuea Jones, seconded by Commissioner Stanton. This is M-N on tracts five through ten. Any discussion on this motion? Seeing none. Ms. Carroll, may we have roll call, please.

**Roll Call Vote (Voting "yes" is to recommend approval.) Voting Yes: Ms. Geuea Jones, Ms. Placier, Ms. Kimbell, Ms. Carroll, Ms. Loe, Mr. Stanton, Ms. Burns, Ms. Rushing. Motion carries 8-0.**

MS. CARROLL: We have 8 votes to approve.

MS. LOE: Ms. Geuea Jones. Are you making this motion in the affirmative?

MS. GEUEA JONES: Correct. Yes. I have a motion. In the matter of Case 256-2021, Corporate Lake rezonings, I move to approve the M-C zoning on tract 11. I will be voting no.

MS. RUSHING: Second.

MS. LOE: Seconded by Ms. Rushing. This is M-C zoning on tract 11. Any discussion on this motion? Seeing none. Ms. Carroll, may we have roll call, please.

**Roll Call Vote (Voting "yes" is to recommend approval.) Voting No: Ms. Geuea Jones, Ms. Placier, Ms. Kimbell, Ms. Carroll, Ms. Loe, Mr. Stanton, Ms. Burns, Ms. Rushing. Motion fails 8-0.**

MS. CARROLL: Eight votes to deny.

MS. LOE: Thank you.

MS. GEUEA JONES: Do we want to make --

MS. LOE: Do we want to --

MS. GEUEA JONES: I'll make the motion. We can discuss it.

MS. LOE: Okay.

MS. GEUEA JONES: I have one final motion. In the matter of Case 256-2021, Corporate Lake rezonings, I move to rezone the M-OF portion of tract 11 to M-N, and revise the legal description accordingly.

MS. BURNS: Second.

MS. RUSHING: Second.

MS. LOE: I'm going to say Commissioner Burns just edged you out, Ms. Rushing, to give us a second. Okay. We have a motion on the floor to eliminate the split zoning on tract 11 by assigning it M-N. Any discussion on this motion? Commissioner Geuea Jones?

MS. GEUEA JONES: In the tradition of Commissioner Stanton, I think this gives them a win-win. They can put their convenience store in, and if they want to put electric charging stations in or whatever, they can get the CUP. But at least this way they can move forward and get an economic benefit out of that tract. I think it's a decent compromise.

MS. LOE: It would give them a zoning.

MS. GEUEA JONES: Without -- yes. Yeah.

MS. LOE: It would eliminate the split zoning.

MS. GEUEA JONES: Without the split. Yeah.

MS. LOE: Mr. Zenner, any thoughts on --

MR. ZENNER: The alternative recommendation was offered just for that purpose.

MS. LOE: All right.

MR. ZENNER: So I -- I concur with Ms. Geuea Jones' assessment. It is something that would allow them the opportunity to more productively use the sliver that is M-OF with the remaining portion of the property.

MS. LOE: Commissioner Burns?

MS. BURNS: The neighbors were against the traffic that even a convenience store might generate, so a negative vote on this, what would that do? What if we did not vote to support this?

MR. ZENNER: If you did not vote to support the rezoning of this -- of the M-OF sliver, the property would remain as it is. The convenience store, depending on its configuration, still can go on the M-N parcel that exists, it is just going to be more significantly constrained. I think, as Mr. Gebhardt pointed out, and I believe it would be still generating the necessity for a traffic study which is going to result in some type of traffic management improvements likely needing to be made at Executive and South Hampton regardless. I think when we look at the broader perspective or the broader -- the broader usage of the land as a whole, the rezoning is appropriate given that we are allowing the features associated with the development of the tract of line, onsite stormwater and other issues, to be more readily absorbed under the same zoning district. So again, while there is the ability today to do a retail store, it would be constrained in its size. It's not going to be significantly increased in size by adding this

sliver of M-OF of which a portion -- a good portion of it is probably sitting in the lake. So as Mr. Gebhardt pointed out, about half to a quarter of an acre of the overall property of this tract is not even developable.

MS. BURNS: Just for my fellow Commissioners, I don't plan on supporting this because I am being respectful of the correspondence and testimony that we heard here tonight. So just FYI.

MS. LOE: I concur with Commissioner Burns, actually, on this one. So, all right. Any additional comment? Discussion?

MS. GEUEA JONES: I -- sorry. I would just -- well, anyway, I -- I think they can already do a convenience store here, and it is a waste of that. It's probably a quarter of an acre that would be M-OF -- it would just be sitting unused, which is why I know the neighbors don't want to see the gas station there, South Hampton is going to have to be expanded at some point. But I don't see any overall benefit to having a sliver of land that is unusable because it is sandwiched between two zoning districts and is too small to have an independent use. So that's -- that's kind of where my head is at. It may also just be my OCD that that's not zoned the same as the rest of the parcel and I hate split zoning. But that -- that's my logic, and I think that there is a huge difference between drive-through gas pumps and a no gas.

MS. LOE: Commissioner Carroll?

MS. CARROLL: I'm in the same place. I want to respect the neighbors. I think your input is important, and I understand where you're coming from. I -- I think what's already allowable in the M-N doesn't change significantly by including that tiny sliver of M-OF, and we still have control through the CUP process and oversight should they wish to pursue a gas station at a later point. I really dislike split zoning and I understand that that is not an action that was imposed by this body, but it is still something that would be better addressed now. So I would actually support this.

MS. LOE: And have we resolved the issue of parking lots going over a property line yet?

MR. ZENNER: Yes. That issue has been resolved.

MS. LOE: That has been resolved. So they could actually run a parking lot over that property line, but --

MR. ZENNER: The -- the problem with that, however, Ms. Loe, is based upon the M-OF zoning classification --

MS. LOE: Uh-huh.

MR. ZENNER: -- the M-OF district does not permit a convenience store. Therefore, the parking lot associated with that use would not be able to be on that site.

MS. LOE: All right. Then -- then I would have to say that they're getting caught up in issues that have come to fruition since they created the plan, and it does seem a bit punitive. All right. Any further -- Commissioner Placier?

MS. PLACIER: Yes. Well, what's wrong with saying that the whole thing should be M-OF then if we are trying to eliminate split zoning, and then it could be a less intensive usage that would not create the traffic problems that the neighbors have pointed out? I know that's not their -- in any way their request and it would deny the possibility of the convenience store gas station, but I'm not sure that's a

great thing to have there.

MS. LOE: You're -- no, you're right. The convenience store is still an in and out, and they didn't request it.

MR. ZENNER: So procedurally -- to address this question procedurally, since it has not been advertised as M-OF and while it is a far more restrictive zoning classification, without the consent of the applicant to downzone or to accept that request, you cannot just up and change what they've applied for.

MS. LOE: We -- we understand, Mr. Zenner. I think --

MR. ZENNER: I could -- I'm --

MS. LOE: Commissioner Placier is simply pointing out that there is more than one direction this could go in.

MS. PLACIER: Yeah.

MR. ZENNER: Okay.

MS. PLACIER: If we're eliminating split zoning, we could --

MS. LOE: All right. Any further discussion? Seeing none. Ms. Carroll, may we have roll call, please.

**Roll Call Vote (Voting "yes" is to recommend approval.) Voting Yes: Ms. Geuea Jones, Ms. Kimbell, Ms. Carroll, Ms. Rushing. Voting No: Ms. Placier, Ms. Loe, Mr. Stanton, Ms. Burns. Motion is tied 4-4.**

MS. CARROLL: We have one, two, three -- four votes to approve and four votes to deny.

MS. LOE: We are missing one, so that would be a tie vote on that one. No decision on that one, which reflects the discussion, I think.

MS. CARROLL: Yeah.

MR. ZENNER: And that will be forwarded to City Council as the alternative recommendation on the denial.

MS. LOE: All right. Those recommendations will all be forwarded to City Council, and non-recommendation. That concludes our cases for the evening.

#### **IX. PUBLIC COMMENTS**

MS. LOE: Any additional public comments? We've worn you all out. I fully understand.

#### **X. STAFF COMMENTS**

MS. LOE: Any additional staff comment?

MR. ZENNER: I can't leave you without imparting wisdom.

MS. LOE: One of these nights you will surprise us, Mr. Zenner.

MR. ZENNER: Your next meeting is September 23. We will have a work session, and that is your Commission election evening. It will also be the night that we will be doing Commission education during work session. The Sunshine Law requirements as well as FOIA are the topics that I believe Ms. Becky Thompson will be covering with you, unless she is still unavailable. But we have also additional cases that are coming up for the meeting, and I will tell you at this point, you get a reprieve. We don't

have seven or eight; we only have four. So you will have a single preliminary plat, and this is for Waco North. This is north of -- this is the property that is to the north of the existing Tuscan Development, which is off of Brown Station Road. Brown School/Brown Station, I always mix the two up, where Alpha Hart Lewis Elementary School is located. And it is basically the extension of Waco Road. It is the platting of the right-of-way for the extension of Waco Road heading west towards U.S. Highway 63 up to about where the Fair Grounds property is, now our City property that we own. Along with the preliminary platting of the northern portion of the property, which is behind Alpha Hart Lewis school, this is being presented in advance of some additional development for what is referred to as Tuscan Plat 2, which is to the west of the existing development and the creek. So there will be additional activity following this preliminary platting action. Additionally, we have three public hearings, and the first public hearing probably looks very familiar to you. You will be wondering why is this coming back? Didn't we just vote on this? Well, yes, you did. However, given the recommendation and given the concerns that were expressed by the Planning Commission with that vote related to the common lot that was being used for the self-storage facility for the residences within the Arbor Falls development, the applicant requested the engineer to consult with the staff to find out, well, could they just make a revision to remove that single lot and replace it with residential dwellings due -- to eliminate the concern. We said, why sure, give us a revised plan. And when we sought the advice of our legal staff as to could we process that as an alternative plan for Council to consider, it was recommended that the project be returned back to the Planning Commission because it very well may have been remanded due to the major change. So we are basically just going to bring you back in essence the same layout, less some storage buildings. We will have to reapprove the design adjustments because we want to make sure that the record is clean, but we will hopefully now have resolved the principal concern of the Commission, and that was the -- the self-storage buildings that were proposed. In their place, if I'm not incorrect, were three additional lots. There were no other changes made to the development plan. So it will be the exact same design adjustments again, and it will be, in essence, the same project. We will try to keep the report succinct, since we have covered most of the major areas, but it is being readvertised and will be brought back to you. We have another permanent zoning request. This is at the intersection, in essence, of I-70 Drive Southeast and St. Charles Road. If you are familiar with where the gas station is -- the Phillips 66 gas station, this is a parcel that is immediately to the northwest of the gas station, next to a parcel that we recently rezoned from PD to M-C. This is a County tract of land, and therefore, the request is to be for the similar zoning. And it will all have Council need for annexation, and then, ultimately, a platting action will need to come in later on it, at this point when a user is desiring to build a building. This was also one of the parcels that was identified in the initial licensure batch for medical marijuana facilities that never had a preliminary plat or any access approved with it. And the medical marijuana facility never showed up, so now we're basically going and we're trying to get it rezoned. That license has actually been transferred to a different property within the City's corporate limits, so it is not going to be used, at this point to our knowledge, for medical marijuana. And then we have the CUP for Logboat Brewery. That

is 504 Fay Street. This was the case that came in at our last meeting as well that Mr. Kelley had identified to you that they are desiring as a part of the overall expansion of the brewing facility and expansion of the tasting room bar facilities that would be in their new building. And bars are a conditional use within the I-G zoning district. Therefore, this CUP is coming to tie off all of the other related development changes that they were wanting to make on the property. And I think, as Mr. Kelley alluded during our last hearing when we were talking about the platting action as well as the rezoning, parking will be an evaluation criteria associated with the CUP, so you will have that information to also consider. With that, those are the four items. What I can tell you is I believe the first meeting in October is going to be of similar scale, so we are starting to see maybe a little bit of a -- of a shift to our more typical holiday schedule. However, I will warn you, I did receive, over the last three days, ten total projects in for review, so it either is going to be a robust beginning of the new year or we are going to get barraged before Christmas. So we might as well buckle up. I will have good meals for you all, and I thank you for your attention tonight.

MS. LOE: Thank you, Mr. Zenner. I knew you wouldn't let us down. And here's the pictures --

MR. ZENNER: Here's your maps, so you know what we are talking about.

MS. LOE: -- to go with our projects.

MR. ZENNER: And there you go. There's the Erickson tract out there on I-70 Drive Southeast, and, of course, Logboat, where we all know. With that, that's, again, all we have to offer.

MS. LOE: Commissioner --

MR. ZENNER: I did again win the over/under. I said 11:00. I'm only 15 minutes late.

MS. LOE: You were pretty good. Better than last time. We're beating last time.

#### **XI. COMMISSIONER COMMENTS**

MS. LOE: Commissioner comments? Oh, I need at least one. Thank you.

#### **XII. ADJOURNMENT**

MS. GEUEA JONES: Move to adjourn.

MS. LOE: Second?

MS. KIMBELL: Second.

MS. LOE: Seconded by Commissioner Kimbell. We are adjourned.

(Off the record.)

(The meeting adjourned at 11:16 p.m.)