



City of Columbia, Missouri

Meeting Minutes

Planning and Zoning Commission

Thursday, March 23, 2023

7:00 PM

Regular Meeting

Council Chambers

Columbia City Hall

701 E. Broadway

I. CALL TO ORDER

MS. GEUEA JONES: I will now call the March 23rd, 2023 regular meeting of the Planning and Zoning Commission to order.

II. INTRODUCTIONS

MS. GEUEA JONES: Commissioner Carroll, may we please have a roll call?

MS. CARROLL: Commissioner Burns?

MS. BURNS: Here.

MS. CARROLL: Commissioner MacMann?

MR. MACMANN: Present.

MS. CARROLL: I am here. Commissioner Geuea Jones?

MS. GEUEA JONES: Here.

MS. CARROLL: Commissioner Placier?

MS. PLACIER: Here.

MS. CARROLL: Commissioner Kimbell? Commissioner Wilson?

MS. WILSON: Here.

MS. CARROLL: Commissioner Loe?

MS. LOE: Here.

MS. CARROLL: Commissioner Stanton?

MR. STANTON: Present.

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

MS. GEUEA JONES: Thank you.

Present: 8 - Tootie Burns, Sara Loe, Anthony Stanton, Michael MacMann, Valerie Carroll, Sharon Geuea Jones, Peggy Placier and Shannon Wilson

Excused: 1 - Robbin Kimbell

III. APPROVAL OF AGENDA

MS. GEUEA JONES: Are there any changes or adjustments to the agenda, Mr. Zenner?

MR. ZENNER: No, there are not.

MS. GEUEA JONES: Thank you. Is there a motion to --

MR. MACMANN: Move to approve.

MR. STANTON: Second.

MS. GEUEA JONES: Moved by Commissioner MacMann; seconded by Commissioner Stanton. Thumbs up approval on the agenda? Thank you.

(Unanimous vote for approval.)

MS. GEUEA JONES: Unanimous.

Move to approve

IV. APPROVAL OF MINUTES

March 9, 2023 Work Session

MS. GEUEA JONES: We all received a copy of the March 9th, 2023 work session and regular meeting minutes. Is there a motion to approve said minutes, or are there changes?

MR. MACMANN: Move to approve.

MR. STANTON: Second.

MS. GEUEA JONES: Moved by Commissioner MacMann; seconded by Commissioner Stanton. Thumbs up approval of the minutes on both the work session and the regular meeting. Thank you.

(Five votes for approval; three abstentions.)

MS. GEUEA JONES: Unanimous with one abstention.

MR. ZENNER: That was?

MS. GEUEA JONES: Or two abstentions, I suppose, because I -- was I here?

MR. ZENNER: Burns and Geuea Jones. No, you were not.

MS. GEUEA JONES: Thank you.

MS. CARROLL: We have three abstentions.

MR. ZENNER: Oh. And Ms. Carroll.

MS. GEUEA JONES: Yeah. So abstentions from Commissioners Burns, Geuea Jones, and Carroll. Thank you. I have slept since then. Very good. Moving on to the agenda items.

Move to approve

March 9, 2023 Regular Meeting

MS. GEUEA JONES: We all received a copy of the March 9th, 2023 work session and regular meeting minutes. Is there a motion to approve said minutes, or are there changes?

MR. MACMANN: Move to approve.

MR. STANTON: Second.

MS. GEUEA JONES: Moved by Commissioner MacMann; seconded by Commissioner Stanton. Thumbs up approval of the minutes on both the work session and the regular meeting. Thank you.

(Five votes for approval; three abstentions.)

MS. GEUEA JONES: Unanimous with one abstention.

MR. ZENNER: That was?

MS. GEUEA JONES: Or two abstentions, I suppose, because I -- was I here?

MR. ZENNER: Burns and Geuea Jones. No, you were not.

MS. GEUEA JONES: Thank you.

MS. CARROLL: We have three abstentions.

MR. ZENNER: Oh. And Ms. Carroll.

MS. GEUEA JONES: Yeah. So abstentions from Commissioners Burns, Geuea Jones, and Carroll. Thank you. I have slept since then. Very good. Moving on to the agenda items.

Move to approve

V. TABLING REQUESTS

Cases # 95-2023 & 96-2023

Requests by Crockett Engineering (agent), on behalf of Mid-Am Development, LLC (owner), for approval of a 13-lot preliminary plat and a rezoning of approximately 18.32 acres of property from the M-OF (Mixed Use-Office) district to the M-C (Mixed Use-Corridor) district. The subject site is located at the southeast corner of Providence Road and Veterans United Drive. **(A request to table this item to the April 6, 2023 Planning Commission meeting has been received).**

MS. GEUEA JONES: Is there a staff report on the tabling request?

MR. ZENNER: There is. The request is being sought to be tabled in order to allow for a revision to a traffic study that was previously submitted that needed some modifications to it, as well as several of the -- several outstanding staff comments. Mr. Crockett is not here this evening, I know. David Butcher from Crockett Engineering is here, but probably not prepared to speak on this item. The April 6th agenda is what Mr. Crockett and I had talked about. It is possible that that date may need to be moved back to the 20th; however, I did not receive any notification that that was the desire. So the request, as it stands, is to April 6th. That may create compression time for the staff to be able to produce the report that's needed, but we will play that out as it relates to next week's scheduled events, and we do have a meeting associated with this particular

request Monday morning, and we may be able to come to some resolution at that point and allow it to stay on the 6th. If that is not the case, it is possible on the 6th, you will receive a request to table it to the 20th. Typically, this would be where we would get an ask if the 6th is the right amount of time. What I can tell you is this is what the applicant wants, and we can't change it without them being present.

MS. GEUEA JONES: And where -- was it advertised?

MR. ZENNER: Yes, it was, and that is why it has to be formally tabled. The rezoning request is basically the northern 18 acres of the property and north of the driveway that comes in at the intersection for Corporate Lake, and that was the rezoning of the remaining portion of the site which is hatched would retain its M-OF zoning as it is today. So if there is any need for us to allow any public to speak in regards to the tabling request, that would be appropriate at this time.

MS. GEUEA JONES: Very good. Any other questions for staff? Seeing none.

PUBLIC HEARING OPENED

MS. GEUEA JONES: Are there any members of the public that are here to speak on the tabling motion? We will not be addressing the merits of this case tonight. Seeing none.

PUBLIC HEARING CLOSED

MS. GEUEA JONES: Any Commissioner comments? Commissioner MacMann?

MR. MACMANN: If there are no other questions or concerns, I have a motion. In the matters of Case 96-2023, and 95-2023, I move to table to the date certain 6 April of 2023.

MR. STANTON: Second.

MS. GEUEA JONES: Moved by Commissioner MacMann; seconded by Commissioner Stanton. Any discussion on the motion to table Seeing none. Commissioner Carroll, may we please have a roll call.

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

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

MS. GEUEA JONES: That item will be tabled to date certain April 6, 2023.

In the matters of Case 96-2023, and 95-2023, move to table to the date certain 6 April of 2023.

Yes: 8 - Burns, Loe, Stanton, MacMann, Carroll, Geuea Jones, Placier and Wilson

Excused: 1 - Kimbell

VI. SUBDIVISIONS**Case # 107-2023**

A request by Crockett Engineering (agent), on behalf of The John E. Gerau Trust (owner), for approval of a 1-lot final plat to be known as, "Gerau Farms, Plat No. 1". The subject 9.83-acre tract is located at 5600 Mexico Gravel Road and was recently annexed into the City and assigned R-1 (One-Family Dwelling) zoning.

MS. GEUEA JONES: May we please have a staff report?

Staff report was given by Mr. Rusty Palmer of the Planning and Development Department. Staff recommends approval of "Gerau Farms, Plat No. 1," pursuant to minor technical corrections.

MS. GEUEA JONES: Thank you. Before we go to questions for staff, if any of the members of the Commission have had any contact with outside parties or outside contact with parties related to this case, we would ask you to disclose it now. Seeing none. Are there any questions for staff? Commissioner Loe?

MS. LOE: Thank you for the report, Mr. Palmer. Sidewalks, your report notes that a sidewalk will be required when the site is developed.

MR. PALMER: Yes.

MS. LOE: No issues with getting --

MR. PALMER: No. They submit performance contracts for the sidewalks, which will be forwarded with the plat to Council, so that that's something that Council agrees. It's a standard form they sign, and it is approved with the plat by City Council.

MS. LOE: Performance contract?

MR. ZENNER: Yeah. It's -- the performance contracts that we have are specific to all public related infrastructure that is required to be -- to support the property. So, it would be water, sewer, public sidewalks. If we add streets that needed to be constructed, they would also be covered by the performance contract. The performance contract requires as a condition of the CO of the property, which would be the Certificate of Occupancy, within three years, those public improvements must be installed. And that is the standard practice. So because this is an arterial roadway, it is required as a part of the building permitting process, and they do have to be shown on the -- there has to be a construction plan submitted along with that in order to allow the staff to be able to analyze the sidewalk as being properly designed to meet City standards. Hence, the reason for the performance contract. They're tied together. The construction plan plus the actual performance contract are what is a binding arrangement between the property owner and any subsequent heirs -- heirs or assigns. So if this property were sold to

someone else, they would be subject to the same conditions.

MS. LOE: And looking at the sidewalks to the west, closer to Wyatt Lane, Lost Tree Terrace, it looks like they have been set back to accommodate for the additional right-of-way?

MR. ZENNER: That would be correct. Our standard sidewalk location is generally one foot off the back of the future right-of-way.

MS. LOE: Thank you.

MS. GEUEA JONES: Any other questions for staff? Seeing none. I will now open public comment.

PUBLIC HEARING OPENED

MS. GEUEA JONES: Is there anyone here from the public to comment on this case? Please come forward. State your name and address for the record. Speak clearly into the mic, if you would. We do six minutes for groups and three for individuals.

MR. BUTCHER: David Butcher, Crockett Engineering, 1000 West Nifong. I'm here to represent the client. You guys approved this in December, I think. This is just a matter of buttoning up any loose ends, but I thought I had better make myself present in case you had any questions.

MS. GEUEA JONES: I'm sorry to do this to you. Would you speak into the microphone so we can get you on the minutes.

MR. BUTCHER: David Butcher, Crockett Engineering, 1000 West Nifong.

MS. GEUEA JONES: Thank you.

MR. BUTCHER: You're welcome.

MS. GEUEA JONES: You've just made our court reporter go deaf, but that's okay.

MR. BUTCHER: Sorry.

MS. GEUEA JONES: Are there any questions for this speaker? Seeing none. Thank you very much. Any other public comment. In which case, we'll close public comment.

PUBLIC HEARING CLOSED

MS. GEUEA JONES: Any Commissioner comment? Commissioner MacMann?

MR. MACMANN: If my fellow Commissioners have no questions or concerns, I have a motion. In the matter of Gerau Farms, Plat Number 1, Case Number 107-2023, with minor technical corrections, I move to approve the final minor plat.

MS. LOE: Second.

MS. GEUEA JONES: Moved by Commissioner MacMann; seconded by Commissioner Loe. Is there any discussion on the motion? Seeing no discussion.

Commissioner Carroll, may we please have a roll call.

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

Burns, Mr. MacMann, Ms. Carroll, Ms. Geuea Jones, Ms. Placier, Ms. Wilson, Ms.

Loe, Mr. Stanton. Motion carries 8-0.

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

MS. GEUEA JONES: Thank you. That recommendation will be forwarded to City Council.

In the matter of Gerau Farms, Plat Number 1, Case Number 107-2023, with minor technical corrections, move to approve the final minor plat.

Yes: 8 - Burns, Loe, Stanton, MacMann, Carroll, Geuea Jones, Placier and Wilson

Excused: 1 - Kimbell

VII. PUBIC HEARINGS

Case # 112-2023

A request by A Civil Group (agent), on behalf of Cinnamon Hill, LLC (owner) for a revised statement of intent (SOI) for the existing Crosscreek Center Planned Development (PD). The revision to the SOI would increase the maximum total building area within this development by 52,000 square feet to accommodate development of a hotel on Lot 108A.

MS. GEUEA JONES: May we please have a staff report?

Staff report was given by Mr. Brad Kelley of the Planning and Development Department. Staff recommends approval of the revised statement of intent to increase the maximum gross floor area on the subject property by 52,000 square feet.

MS. GEUEA JONES: Thank you very much. Are there any -- or I'm sorry. Before we go to questions for staff, if any Commissioners have had any outside contact with parties in this case, please disclose it now. Seeing none. Are there any questions for staff? Going once, going twice. Okay. I will open the floor to public comment.

PUBLIC HEARING OPENED

MS. GEUEA JONES: Please come forward. Name and address, all the good stuff.

MR. GEBHARDT: Good evening. My name is Jay Gebhardt; I'm a civil engineer with A Civil Group, and I'm here tonight representing Genesis Development, which is the developer who I brought the hotel plan through. As you may remember from that meeting, there was a discussion that the current hotel there filed a lawsuit and through that discovery process, we did discover that there could be an issue with the private covenants. And what would happen is is when the City said we could have 580,000 square feet, they -- we had developed fictitious plans for each of these lots. And the only way to allocate that 580,000 was based on that plan. So this lot was allocated -- it

originally showed as a restaurant was 8,000 square feet. So that's why we're asking for 42,000 square feet because the hotel is a -- (inaudible) -- square feet building. And although the City only looks at the total 580,000, which we are under, what that covenant did was keep one person from using square footage that was allocated to someone else. So we couldn't get to the end of this project and have a lot that didn't have any square footage left. So that's all we were really trying to do is -- is get the hotel so that it can be built, and it would be in compliance with the private covenant, and the only way to do that was to go to the City Council and ask them to increase the ceiling total amount. And Brad hit on the stormwater part of this. You know, this has been my project since the very beginning. It's -- we have -- because of the three-story, four-story hotel, three-story apartments, two-story office building, there is about nine percent less impervious area than what was originally planned on -- on this site. So the intent of the limiting the area was to limit the amount of impervious area. Well, it is developed in such a way that we've gone vertical and not spread out and don't have as much impervious area that was originally intended. So I think that intent has been met with that. But if you guys have any other questions, I would be glad to answer them. Robert Hollis is also here if you have questions about the --

MS. GEUEA JONES: Are there any questions for this speaker? Commissioner Loe?

MS. LOE: Hi, Mr. Gebhardt. Building height. Since you're going up instead of out, what's the height of the proposed building?

MR. GEBHARDT: Well, the plan that was already approved by Planning and Zoning, there's -- I think it's a maximum height that's 45 feet, and I think the building is 44 or something like that. It's a flat-top roof so to make that four stories work, but yeah.

MR. KELLEY: But if you don't mind me interjecting here, the max -- max height is 96 feet in the statement of intent. But I think what Jay is thinking about the proposed height for the hotel is correct, though.

MR. GEBHARDT: Thank you, Brad.

MS. LOE: So for my clarification, on this lot, the maximum height is also 96 feet?

MR. KELLEY: Yes.

MS. LOE: Okay. I do remember we went over that. I just don't see a height on the plan, so I was verifying. Thank you.

MS. GEUEA JONES: Any other questions for this speaker? Seeing none. Thank you,
Mr. Gebhardt.

MR. GEBHARDT: Thank you.

MS. GEUEA JONES: Any other member of the public to speak on this case.

Please come forward.

MR. HOLLIS: Robert Hollis, attorney with the VanMatre Law Firm, here on behalf of the property owner, 1103 East Broadway. I don't have anything to present, but I'm happy to answer any questions.

MS. GEUEA JONES: Any questions for this speaker? Commissioner MacMann?

MR. MACMANN: Hello, Mr. Hollis. How are you?

MR. HOLLIS: I'm great. How about yourself?

MR. MACMANN: I'm fantastic. Is everyone done suing each on this thing?

MR. HOLLIS: Well, the lawsuit is -- has basically moved nowhere. I think when we last spoke, they had -- they had filed the petition. They asked for an amended -- potentially asked for a restraining order which they didn't get.

MR. MACMANN: Right.

MR. HOLLIS: And then they asked to amend the petition, which they amended, and then we answered and now they've done nothing.

MR. MACMANN: There it sits. All right. You know I had to ask that question.

MR. HOLLIS: I assumed that was coming specifically from you.

MR. MACMANN: But I'm glad we discovered things that needed to be corrected when we did discovery. Right? I don't currently have any more questions for you. Thank you, sir.

MS. GEUEA JONES: Any other questions for this speaker? Thank you very much, Mr. Hollis.

MR. HOLLIS: Thank you.

MS. GEUEA JONES: Any other member of the public to speak on this case? Going once, going twice. Okay. In that case, I will close the public comment period.

PUBLIC HEARING CLOSED

MS. GEUEA JONES: Are there any Commissioner comments on the case? Commissioner Loe?

MS. LOE: Identifying a gross floor area does not, to my mind, establish coverage because it does leave open the door for building up. I think what's establishing the open area is the minimum maintained open space, which has been set at 15 percent lot and 28 percent aggregate. And that's not being requested to change. I -- I don't like getting in the middle of a private and completely separate private covenant, and I think I would recommend that we not have clauses that require City Council approval in the future, if possible -- changes to private covenants. Thank you.

MS. GEUEA JONES: Commissioner MacMann?

MR. MACMANN: I would second Chairperson [sic] Loe's concern. We tell folks all the time that we have nothing to do with private covenants, and then all over the presentation of this, it's all about private covenants. And I appreciate the concern, I appreciate everyone has the right to change their mind on what they want to do on a piece of property, but that's not our concern. It's not our concern to help someone out of a lawsuit or not. That said, I do have a follow-up question for staff, if I may, Madam Chair?

MS. GEUEA JONES: Please.

MR. MACMANN: I don't recall off the top of my head, Planner Kelley, the stormwater preparations for this. Can you -- did you have it in front of you? Can you give me a little bit of info?

MR. KELLEY: I don't have any specifics, other than what Jay mentioned earlier. He was correct, talking about they are -- they will be nine percent less for impervious than what they expected. I spoke with the stormwater staff. They had no issue with it at all. Again, with the stormwater ordinance we have now, and with again, as Ms. Loe mentioned, as well, that open space controls those together alleviate any concerns they have.

MR. MACMANN: Yeah. I wouldn't think there would be, but I felt obligated to ask that as this has become fluid over time, and don't want the owner to be too fluid. Thank you very much, Planner Kelley. Madam Chair, thank you.

MS. GEUEA JONES: Thank you, Commissioner. Anyone else? Commissioner Placier?

MS. PLACIER: One thing I've puzzled over is that despite these plans, to not have a giant half-empty car lot. We still have only reduced the impervious surface by nine percent. It just doesn't seem like that great of a reduction considering the change in plans.

MS. GEUEA JONES: Thank you. Commissioner Loe?

MS. LOE: If I can comment on that. The building footprint is larger, so the parking area may have gotten smaller. But the building footprint has gotten larger.

MS. GEUEA JONES: Anyone else? Commissioner Burns?

MS. BURNS: If there is no other comment, I'll be happy to make a motion.

MS. GEUEA JONES: I do have one very quickly, and then I'll let you. I was just trying to go last and be polite. Yeah. I -- I have a real problem with the way this whole thing was done, and I'm just going to put it on the record because I know there are things in the works that will look very similar to this where you've got fictitious buildings, fictitious plans and/or PD zoning with no plan. And this is why that's a bad idea,

because back in 2008 and 2012, everyone thought it was a great plan to limit this tract to 580,000 square feet for all these different lots. And now, all of a sudden, that's no longer a great plan. Well, that's because it was never built out. And I -- I just want to say that the public covenants aside, which it is disturbing to me, that we are looking at a way to get around some private covenant problems coming through our body. But regardless of that, my issue is this is a problem we see again and again because PD zoning was so common back in the day. And it is why you hear my resistance every time a new PD comes before us, because it just sets us up for more problems in the future. But with that, I'm -- I'm done. So, Commissioner Carroll, go ahead.

MS. CARROLL: Thanks. If I may. Yeah. I see all the same problems you see. It's concerning to me going forward because we do have cases with PD plans coming for us. I think for this case, the way to resolve that situation is to build the plan, and if this is what allows the plan to build, then I -- I think that that's probably the best path forward. I do plan to approve this regardless of how sticky I feel that it is.

MS. GEUEA JONES: If there's no one else, I'll go back to Commissioner Burns. Oh. Commissioner MacMann? Sorry.

MR. MACMANN: If I may have a second short byte, just a comment.

MS. GEUEA JONES: Only if you speak into the microphone.

MR. MACMANN: If I may have a second short byte. Just a comment.

Commissioner Loe and Commissioner Burns and Commissioner Stanton will remember this. We fought a battle against speculative zoning and speculative planning, and we lost that battle. Just tossing that back out there.

MS. GEUEA JONES: Thank you. Commissioner Burns?

MS. BURNS: Thank you. In the matter of Case 112-2023, Crosscreek Center PD statement of intent revision, I recommend to approve.

MR. MACMANN: Second.

MS. GEUEA JONES: Moved by Commissioner Burns; seconded by Commissioner MacMann. Is there any discussion on the motion? Seeing none. Commissioner Carroll, may we have a roll call.

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

MS. CARROLL: We have seven yes and one no. The motion carries.

MS. GEUEA JONES: Thank you. That recommendation will be forwarded to City Council.

In the matter of Case 112-2023, Crosscreek Center PD statement of intent revision,

recommend to approve.

Yes: 7 - Burns, Loe, Stanton, MacMann, Carroll, Geuea Jones and Wilson

No: 1 - Placier

Excused: 1 - Kimbell

VIII. PUBLIC COMMENTS

MS. GEUEA JONES: Are there any members of the public that are here tonight to make general comments to us? Seeing none

IX. STAFF COMMENTS

MS. GEUEA JONES: Staff comments. The ever-popular agenda item.

MR. ZENNER: Yes. Well, I can't let a meeting end without them. Your next meeting will be April 6th, and I did not mean to take us out of the PowerPoint. And that will be a full meeting, so we will come back to our regular work session and -- regular work sessions and you've got to switch the -- our regular work session at 5:30 p.m. to which we will be discussing -- continuing our discussion as it relates to the proposed R-C zoning district, residential cottage standards. I'll be able to get a little bit of time to start working on that, as well as then having our regular meeting at 7:00 p.m. And we appear as though we may have -- we may have as many as three items tabled at that agenda; but nonetheless, I'm going to show you all of the items that are currently proposed. These are all of the items that are supposed to be on this agenda; however, I have been reading some correspondence that was sent out late this afternoon in regards to this preliminary plat. It may not make the cut. We only have about a week in which to prepare staff reports and we have some significant outstanding staff comments in a revision to a sinkhole study that was done. And this is the problem that is at the corner of Sinclair and Louisville -- or not Sinclair -- Smith and Louisville Road that has a whole series of sinkholes on it that we had seen last year. They're looking at massaging the -- the geo-tech report to address some issues that we identified, so that may not be ready to go. The one I can tell you we will have on is the one we have advertised for a public hearing, and that is 25-33. This is a lot down at Corporate Lake. It is currently zoned PD, seeking to be brought out of that nebulous world of plan to straight M-C zoning. This does happen to be on the east side of the lake, so it is actually in an area that would be more conducive to an M-C classification, whereas everything around the lake and to the west is more of an M-C or R-MF zoning designation. And if you will remember about a year ago, if I'm not incorrect, we did some very comprehensive rezonings of parcels around the lake to straighten out some of the zoning. This particular parcel was not part of that collective action; however, it is now sought to be brought into a more straight zone

to allow for the property to be more easily developed. And given the lack of additional development down at the Corporate Lake area, this move may be an appropriate decision. And then the last two are the two that tabled here at the beginning of tonight's meeting. Again, I am not quite sure if we will be able to make progress to get those staff reports for the 6th's meeting given the short window of time that we have to address outstanding comments. And this will come as a package when it does get brought to the Commission as a public hearing for the rezoning with the associated subdivision plat. These are the location maps associated with our property here at Louisville and Smith, and then our property at Corporate Lake, and then our two parcels down at the corner of South Providence and Veterans United just to the west of the current Veterans United campus, the former State Farm property. As it relates to questions and comments that were made during our discussion of Case 112, I will echo many of the comments and the concerns of the Commission. This is one reason why staff is not generally supportive of planned districts. This particular case that we have discussed this evening was unique in how its restrictive covenants were structured, which you are correct in your assessment. We don't look at restrictive covenants. And had the pending action of litigation related to the PD plan not been brought, the staff would have followed its standard practices of reviewing that development plan for the 580,000 square feet that it included within in. As the December staff report indicated, it was going to leave remaining undeveloped parcels with very limited amounts of acreage. That statement, in and of itself, is an acknowledgment that we knew that the action was going to have an impact. Via the litigation, as Mr. Hollis pointed out, and as Mr. Gebhardt pointed out, however, they had identified within that restrictive covenant, which was then brought to your attention, this legitimate process that they could go through. We normally would never have considered it from that aspect, so I -- they wanted to take the appropriate step that they were afforded through their covenants to revise the plan. They could have come in as easily when we were doing the plan review had they known that that was going to become an issue and ask for a concurrent increase in the square footage, and we would have handled it like we handle any other amendment to a statement of intent. So the way that it's portrayed in the staff report for this evening's report is a correct portrayal. It was driven by the applicant bringing to us and our attention that restrictive covenant. We would normally not go digging; however, it is what it is, as I often say. We do not have many planned districts that have caps in them. And therefore, that's the other unique little element associated with this. And if you look at the history of planned development prior to the stormwater ordinance, it's probably a more common tool that was utilized because the stormwater ordinance didn't exist. Now that we have the stormwater

ordinance, we really don't have to be as concerned about coverage because the stormwater ordinance deals with that, as well as the rest of our Code requirements. And hence the reason why we -- if you're going to do a planned district moving forward, we're asking that we are doing bulk and density related provisions within that statement of intent, not fictitious building footprints that may change over time in order to define what the limitations are for that site but allowing the rest of our Codes to apply in each individual instance. So for any planned district that's use for mitigating maybe neighboring property owner or other possible political issues, planned districts, I think, will continue to exist, but the way that we want to structure them is to not be so confining as it relates to a site plan illustration, but more confining based upon that the actual capacity issues are that it relates to the property. And that's all driven by roads and other infrastructure that may be available. We believe that the Code and our allied codes, the stormwater ordinance, tree preservation, and all of those other factors, provide adequate levels of protection that don't necessarily need to be maybe augmented generally speaking by additional restrictions, such as what we see here at Crosscreek or other developments with the maximum square footage being limited. It's a much cleaner way for us to review projects and it's probably a much cleaner way for the Commission, as well, to deal with amendments because then we're not dealing with this type of stuff. I wanted to make that statement for you all this evening, understanding your concern, and we appreciate your support to try to -- to eliminate the preponderance of use of planned districts moving forward. I think we're all in the same position. We'd prefer to not have them.

MS. GEUEA JONES: Thank you, Mr. Zenner.

X. COMMISSIONER COMMENTS

MS. GEUEA JONES: Any Commissioner comments for the night? Commissioner Burns?

MS. BURNS: I wondered if we had changed our voting order. I feel like I've had the pleasure of going first multiple times in the last few meetings.

MS. CARROLL: Sorry about that.

MS. BURNS: Not that I mind, but --

MS. CARROLL: I missed the last meeting, so I don't know who goes first. I always mark who goes first, but I can't flip to the last meeting and see who went first last time. You probably went twice in a row.

MS. BURNS: Just want to make sure everybody is getting that chance. Thank you.

MS. CARROLL: I apologize.

MS. BURNS: Thank you.

MS. GEUEA JONES: Any other -- Commissioner MacMann?

MR. MACMANN: Just a note on what Mr. Zenner said. We don't have it too often, but when we do have it, I think the Burnham property up north buried in private things. And this is why I said then and I will continue to say, if there's a lawsuit, tell them I don't want to see it. I don't want to see it because they're not ready for prime time. I'm done.

MS. GEUEA JONES: Thank you, Commissioner MacMann. Anyone else?
Commissioner Loe?

XI. NEXT MEETING DATE - April 6, 2023 @ 7 pm (tentative)

XII. ADJOURNMENT

MS. LOE: Move to adjourn.

MR. MACMANN: Second.

MS. GEUEA JONES: There's been a motion to adjourn and a second. Moved by Commissioner Loe; seconded by Commissioner MacMann. Seeing no objection, we are adjourned.

(The meeting adjourned at 7:45 p.m.)

(Off the record.)

Move to adjourn