



# City of Columbia, Missouri

## Meeting Minutes

### Planning and Zoning Commission

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Thursday, December 6, 2018  
7:00 PM

Regular Meeting

Council Chambers  
Columbia City Hall  
701 E. Broadway

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#### I. CALL TO ORDER

MS. LOE: I would like to call the December 6th, 2018 Planning and Zoning Commission session to order.

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

MS. BURNS: Yes. Mr. Harder?

MR. HARDER: Here.

MS. BURNS: Mr. MacMann?

MR. MACMANN: Present.

MS. BURNS: Mr. Stanton?

MR. STANTON: Here.

MS. BURNS: Mr. Strodtman?

MR. STRODTMAN: Yes, ma'am.

MS. BURNS: Ms. Rushing?

MS. RUSHING: Here.

MS. BURNS: Ms. Russell? Mr. Toohey? I am here. Ms. Loe?

MS. LOE: Were.

MS. BURNS: We have seven. We have a quorum.

MS. LOE: Thank you.

**Present:** 7 - Tootie Burns, Dan Harder, Sara Loe, Joy Rushing, Anthony Stanton, Rusty Strodtman and Michael MacMann

**Excused:** 2 - Lee Russell and Brian Toohey

#### II. INTRODUCTIONS

#### III. APPROVAL OF AGENDA

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

MR. ZENNER: No, there are not.

MS. LOE: Thank you.

**Thumbs up approval**

**IV. APPROVAL OF MINUTES**

**October 18, 2018 Regular Meeting**

MS. LOE: Everyone should have received a copy of the October 18th meeting minutes in advance. Were there any corrections or changes to those? See none, I will take a thumbs up approval. One abstain, Joy?

MS. RUSHING: Yes.

MS. LOE: It looks unanimous.

**Thumbs up approval**

**V. TABLING REQUESTS**

**Case # 20-2019**

A request by Civil & Environmental Consultants, Inc. CEC (agent), on behalf of Missouri Alpha of Phi Kappa Psi, a Missouri Corporation (owner), for a one-lot final minor subdivision plat to be known as "Missouri Alpha of Phi Kappa Psi Subdivision" to allow for a building addition to the existing structure. The 3.96-acre property is addressed 809 S. Providence and is zoned R-2 (two family dwelling) and RMF (multiple family dwelling). **(A request to table this item to the December 20, 2018 Planning Commission meeting has been received).**

MS. LOE: Our first order of business is a tabling request. MS.LOE: Mr. Zenner, may we have a report, please?

MR. ZENNER: Yes. As you can see here on the monitor the location there at the southwest corner of Burnham and South Providence, the applicant is requesting a tabling and we are supportive of the tabling due to the fact that we have to have time to process and properly advertise in accordance with the Unified Development Code's requirements. The design adjustment was identified late in the process. So the 20th of December is the meeting that they have sought to table to. We are confident and almost completing our full review and the state is capable of being met. So we are supportive of the request to table. It is a technical tabling and it was their first tabling request.

MS. LOE: Thank you. Are there any questions of Staff? Are there any public comments on this tabling request? Seeing none, would anyone to carry make a motion? Mr. MacMann?

**MR. MACMANN: Thank you, Chairman. In Case 20-2019 Missouri Alpha of Phi Kappa Psi plat, the zoning adjustment, I move that we table said request.**

**MR. STANTON: Second.**

MS. LOE: Second by Mr. Stanton.

MR. MACMANN: To day certain 20 December 2018.

MS. LOE: Thank you.

MR. STANTON: Yes.

MS. LOE: Mr. Stanton agrees with that amendment. Is there any discussion on the motion to Table 20-2019? Seeing none, Ms. Burns may we have a vote? Question mixing this principle will be have a vote please?

**MS. BURNS: Mr. Harder?**

**MR. HARDER: Yes.**

**MS. BURNS: Mr. MacMann?**

**MR. MACMANN: Yes, ma'am.**

**MS. BURNS: Mr. Stanton?**

**MR. STANTON: Yes.**

**MS. BURNS: Mr. Strodtman?**

**MR. STRODTMAN: Yes.**

**MS. BURNS: Ms. Rushing?**

**MS. RUSHING: Yes.**

**MS. BURNS: My vote is yes. Ms. Loe?**

**MS. LOE: Yes.**

**MS. BURNS: Seven to zero, motion carries.**

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

**Case 20-2019 Missouri Alpha of Phi Kappa Psi plat, the zoning adjustment, move that we table to day certain 20 December 2018.**

**Yes:** 7 - Burns, Harder, Loe, Rushing, Stanton, Strodtman and MacMann

**Excused:** 2 - Russell and Toohey

**VI. SUBDIVISIONS**

**Case # 05-2019**

A request by Crockett Engineering (agent) on behalf of Columbia Public School District (owner), for approval of a one-lot replat to be known as “Jefferson Middle School, Plat No. 1”; and design adjustment from Section 29-5.1(g)(4) of the UDC pertaining to dedication of utility easements. The subject 6.76 acre property is located on the north side of Rogers Street between Fifth and Eighth Streets and is addressed 713 Rogers Street. The property is zoned R-MF (multiple-family dwelling), M-N (mixed use-neighborhood) and FP-O (flood plain overlay) districts.

MS. LOE: Moving on to subdivision section. MS. LOE: May we have a staff report, please?

MS. BACON: Yes, Madam Chairman. As you mentioned this is Case 5-2019.

You'll notice that we have in recent months reordered how we order our cases. This is the site of the Jefferson Middle School, formally the Jefferson Junior High and then also Columbia's first high school. It's at 713 Rogers Street. The request tonight is a final plat to take 11 previously platted lots under Guitars addition to Columbia in 1883 and to create one final lot. At this time we do not have any redevelopment or building addition plans to review. It's just the plat redesign adjustment request. We had a public information meeting on October 30th. No one from the public attended. We sent 31 postcards. We advertised this case on November the 20th. We also sent 31 information letters to adjacent property owners. We have received some correspondence from a member of the Northcentral Neighborhood Association regarding information on the process of platting and the design adjustment and moving forward as well. So in context for the subject's site we've got Columbia College right through here. We've got Hickman High school site here. This is Providence Road. This is Hickman Avenue right here. We've got Fifth Street, Eighth Street, and Rogers Street as well as Douglas Park here to the south and west of the site. As I mentioned this will be plat lots 38 through 47 and the public school grounds of the original Guitars addition to the City of Columbia and to the single lot. The zoning on the site all allows the existing use of a school outbuildings and a track as well as parking. The tract -- track is located here. That's generally where the FPO overlay is located. That track structure is allowable within the floodplain overlay. Any additions or new structures would be subject to a floodplain overlay permitting process. They are -- the applicant is seeking a design adjustment to Section 29-5.1(g)(4) and -- see this is a partial design request along Hickman Avenue. So, for the most part I'll show a slide here that zooms in a moment. The 10 foot required utility easement adjacent to the public roadways, so it's full here on Rogers, Fifth and Eighth Street. On Hickman -- we'll zoom in here in a moment -- they are requesting a very slight modification at the location of the existing building and staircase where it would encroach in that 10-foot right-of-way. I'll talk more about that here in a moment. Per the UDC this plat will also be brought up to other standards. So we are going to be having corner truncations at all of the intersections, which is required by the code. And like I said, the other utility easements adjacent to the public roadways. So zooming in right here you can see that this is a point at which it will be reduced to about two feet at its narrowest point. In this we have additional information about how far exactly away from the right-of-way on Eighth Street this is located. This is a historical structure and is recognized as the most notable property. The original school building was torn down and the existing Jefferson Middle School has been around since 1910. The utility staff reviewed the design adjustment request in addition to the plat as well. They worked with

the applicant to identify where existing utilities were in terms of the overhead powerlines on Hickman Avenue, where there were some existing manholes, where the utilities are in the street and aboveground and then also where that existing building and staircase will potentially encroach that full 10-foot would be applied throughout the entire roadway. The utilities department supports the design adjustment as presented. Planning staff also reviewed from the criteria of the code for design adjustments. In particular we feel that this design adjustment is the least amount possible to accommodate an existing site feature. That's the five criteria within the code. Additionally, it's not inconsistent with the comp plan. It's not detrimental to public safety. It doesn't injure public properties. It has no negative impact on either pedestrian or vehicular access to the site. And so because of all those reasons and the support of the utilities department, we are recommending that the plat and the design adjustment be approved this evening. As I said, we feel the design adjustment addresses a unique feature of a historic site and overall does meet the five design adjustment criteria in 29.5.2(b)(9). So tonight we are asking for approval of Jefferson Middle Plat Number 1, design adjustment Section 29-5.1(g)(4) as requested. And the applicant's here should you have any questions. I'm also happy to answer questions as well.

MS. LOE: Before we go to commissioner questions, I would like to ask any commissioner who has had any ex parte prior to the case related to -- or prior to the meeting related to Case 5-2019 please disclose that now so that all commissioners have the same information to consider on behalf of this case in front of us. Seeing none, were there any questions for Staff? Mr. Strodtman?

MR. STRODTMAN: Ms. Bacon, the right-of-way for utilities, is that a new easement or are they existing utilities, the ten-foot on the north side?

MS. BACON: That is a new dedication of easement.

MR. STRODTMAN: So that would be brand new?

MS. BACON: Yes.

MR. STRODTMAN: Thank you.

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

MR. MACMANN: Thank you, Madam Chair. Thank you, Mr. Strodtman. To follow-up on what Commissioner Strodtman said, the utilities are fine there. The utility department within the city of Columbia on this two-foot -- it's a very short distance there. I familiar with it. I have to ask -- I'm sorry. I withdraw my question because it is too hypothetical, but thank you.

MS. LOE: Thank you, Mr. MacMann. Any additional questions? Seeing none, even though this is not part of the public hearing portion of the meeting, if there is anyone in

the audience that would like to speak on this matter we would welcome that. Please come up to the podium and give us your name and address for the record.

MR. ZENNER: Before we begin, if I may. The design adjustment is a public hearing item. The final plat, of course, is a technical matter. So if there are any people that are here to present testimony in support or opposition to the proposed design adjustment pursuant to the provisions of the Unified Development Code it is a public hearing and it has been advertised as such.

MS. LOE: Okay.

MR. ZENNER: So those that would like to provide comment are welcome to come forward as it relates specific to the design adjustment.

MS. LOE: Everyone understands this is a public hearing and anyone may come up and provide public comment for the public record. Please give us your name and address.

#### **Public Hearing Opened**

MR. CROCKETT: Madam Chairman, members of the Commission, Tim Crockett. Office at 1000 W. Nifong. Here tonight representing Columbia Public Schools, with me is Randy Gooch. He is the chief operations officer for Columbia Public Schools and he is here to answer any questions that you may have that pertains specifically to Columbia Public. I will be brief in my presentation tonight. Ms. Bacon did a great job. She summed it up very nicely, did a good job of that. Pretty much my information is going to be mimicking what she's always said. Again, it's a standard subdivision plat containing about 11 parcels, about 6.76 acres in sized and it's going to grant additional right-of-way along Rogers Street as well as Hickman Avenue. The other streets, Fifth and Eighth have appropriate right-of-way at this time. Again, with the subdivision plat we are asking for one design adjustment. A copy of the final plat. The design adjustment, again, it's just a partial design adjustment to Section 29-5.1(g)(4) which is pertaining to the ten-foot utility easement that gets platted adjacent to -- gets adjacent to all platted right-of-ways. So it is -- what we're encountering is we have an existing building that would encroach into that easement. Again, that building was built back at the turn of the century somewhere around 1910, 1919. It's hard to tell with the records that we have. And this plat dedicates your prior easement work possible. The location we are talking, I believe Ms. Back had indicated is around the green circle. Here it is more specifically. If we look at -- zoom in on the building itself, the pink line and the magenta line is the ten-foot utility easement that will be platted according to the regulation. The blue line that kind of goes around that is the platted easement per the design adjustment. We worked with the utilities department, talked to planning staff. We believe that this location is the best

location for that easement. It does come off of that building two feet is what we were asked to put that off by the utilities department. So it's not right up against the building. They have given us little leeway at their discretion and so that's were asking for. Here is a picture of the portion of the building. As you can see, pretty much the staircase, the main entryway where the gym addition and that whole frontage right there would be an in that easement. You can see the historic value of the building and where that would be. Again, in conclusion it conforms to the city standards with the exception of this design adjustment. By granting the design adjustment it prevents an existing easement rolling through a historic building. Again, it comes with support from the utilities department as well as City staff. With that, I'd be happy to answer any questions that the Commission may have.

MS. LOE: Any questions for this speaker? Mr. Strodtman?

MR. STRODTMAN: Mr. Crockett, the ten-foot easement will be ten foot everywhere you can up until that little blue line?

MR. CROCKETT: Absolutely. We're granting it everywhere we can expect just that one portion.

MR. STRODTMAN: And that one portion, what would the easement be at -- the width?

MR. CROCKETT: It varies, Mr. Strodtman. As far as the ten feet --

MR. STRODTMAN: The shortest distance through the corner?

MR. CROCKETT: The shortest in the corner is about three feet.

MR. STRODTMAN: Thank you.

MS. LOE: Any additional questions? I see none. Thank you, Mr. Crockett.

MR. CROCKETT: Thank you.

MS. MAYS: Hello, my name is Susan Mays (ph). I live at 902 North Seventh Street and I am the current president of the Northcentral Columbia Neighborhood Association. I'm just here -- mostly to ask a couple of questions. I don't know if this -- sorry to be ignorant of the process. But there is a stormwater CIP project that has been on the three or five-year CIP list for over ten years now for a stormwater improvement along Hickman Avenue. Sorry. And so along Hickman Avenue, so I was asking if this would affect the project? I know it's being moved -- there is movement happening on that project.

MS. LOE: Mr. Zenner, is this something staff could help us with or --

MR. ZENNER: If there's a CIP project, I would imagine typically the coordination of any potential site improvements that will be made following the final plat, that would be coordinated between the applicant for the site improvements of the City to try to coordinate construction activities. Otherwise, planning action does not alter the

trajectory of an existing CIP project. This is simply a consolidation action that is establishing a legal lot in order to potentially permit the submission of future construction plan for this site if there is one desired or planned. At this point, no the platting will not affect the trajectory of that. If improvements -- site improvements are proposed that coincide with potential construction there would likely be some -- hopefully some pulling of resources but not an elimination of the project. This site if and when development is proposed is going to have to comply with all city code requirements. Meaning it will need to meet any stormwater standards that exist or tie into those that are being proposed or have been installed. So all that will be part of evaluating criteria at the time of the building permit.

MS. MAYS: Okay. I'm not sure what that means the neighborhood needs to look for.

MR. ZENNER: You need to continue to coordinate with the City's public works stormwater utility.

MS. MAYS: Okay. That is not part of the planning process then, is what I'm hearing?

MR. ZENNER: No, it is not part of this process. It is an independent process.

MS. MAYS: Okay. Thank you.

MS. LOE: Thank you, Ms. Mays.

MS. HARRISON: I'm Barbara Harrison. Why is this plan needed?

MS. LOE: Ms. Jefferson (sic), may we have your address?

MS. HARRISON: Okay. So why do you need to have this utility easement done now?

MS. LOE: I'm sorry. May we have your address?

MS. HARRISON: Why do you need my address? It's 305 N. Fifth Street. I just wonder why you need it, though.

MS. LOE: For a public record if you're making a public comment.

MS. HARRISON: At the City Council, you don't have to give your address. Why is this a little bit different. But it's 305 N. Fifth Street.

MS. LOE: Thank you.

MS. HARRISON: Which, is right -- it connects with that Rogers Street.

MS. LOE: Okay.

MS. HARRISON: Back to why, now, do you feel like this utility easement has to be done now? That's my question. Because it really sounds to me like you really truly do know that you're planning to put something there soon, a structure.

MS, LOE: The easement is a recorded element on the plot and maybe staff would



describe this better and more technically than I do. But we're in the process of recording something so easements need to be included with that.

MR. ZENNER: That's a very good summary. The original property -- at the time that the original property was platted as part of Guitars addition to the city of Columbia back in the late 1800s or early 1800s or thereabouts, the standard for utility easements was not part of our -- part of the planning process, dividing lots up. As we have evolved as a city and we have utilities now that require a particular location on a parcel of property, whenever an individual comes in to replat their lot, they are asked to provide the required utility easement so we can standardize where our utilities are generally located and they are required to provide any additional right-of-way, roadway width, to accommodate future road improvement. So we -- when people subdivide or re-consolidate property like this proposal, we are trying to set the lots up to ensure that they are capable of being able to receive contemporary infrastructure improvements, water sewer, electric, and that road improvements should they be planned in the future. So the action and the request of the applicant is no different than we would apply to any other property within the neighborhood or any other new development that is on raw ground, it's on greenfield property today. It's a consistent practice that has just evolved over time and is now part of our regulatory standards.

MS. HARRISON: Okay. I understand that pretty much.

MS. LOE: I just want to add, the only reason it's coming forward today is there is existing conditions on this property that preclude the normal measures from being met. So we are evaluating whether or not we can make those concessions.

MS. HARRISON: Well, it just seems kind of strange to me that now you're concerned about that area coming up to standard. Is that pretty much what you're trying to say?

MS. LOE: It's -- I think Mr. Zenner was more explaining the standards have evolved over time and that at any time a parcel is platted after a date that those standards are adopted, then it would be evaluated by those new standards. This parcel hasn't been changed since --

MS. HARRISON: The early 19. I got that.

MS. LOE: Right.

MS. HARRISON: So I'm still saying for what? It *hasn't* been changed till now and then you keep throwing out like any future -- like there just might be something in the making, so therefore you're going to go ahead now and getting this taken care of.

MR. ZENNER: Roadway improvements, there may be future roadway improvements that are planned. We're not aware of any at this point. There obviously is a stormwater

capital improvement project that is planned that is either going to be located within this easement that is acquired at this point as part of the planning action or would be requested to have been donated or given to the city to accommodate the drainage facility as that project moves forward. So in essence we -- again, with every property that comes in to be platted after we have adopted particular standards, they are required to comply with our new requirements. The school district is -- has had a valid referendum as it relates to this particular property. It is to our knowledge that there is a proposed improvement that will be built on this site. We do not have any plans associated with that at this point. We cannot comment on what it will be. When they do come it, they will be required to comply with all of our regulatory standards that we have. There is no public project here other than what has been identified as a CIP project that we are aware from staff -- the planning staff perspective at this point. The property is being platted to conform with our current regulations that just did not exist when the lots were originally created.

MS. HARRISON: When you get this -- what did you call these? Schools? How would that affect the community?

MR. ZENNER: I cannot respond to that.

MS. HARRISON: You cannot respond? Well, that is interesting. I oppose. I live in that area and I just think it doesn't seem right. I understand that you're saying that this is kind of a routine thing to do, and that Jefferson Junior High School is kind of outdated, so you want to get a better utility structure aligned and more updated things. But I don't see -- it seems like to me it's going okay now. It's troublesome to me that you're trying to update something. I just feel like you're just not telling the community in that area the truth and we deserve to know the truth. You're just trying to get over on us. That's my feeling.

MS. LOE: Mr. Strodman?

MR. STRODTMAN: I just want to respond that this is -- has nothing to do with this neighborhood. This is a very standard plat that we would do any part of the city and the applicant might have something in the future plan, but that's the city of -- that's the Columbia Public Schools as it happens; not the City and not us. So if you want to know what Columbia Public Schools future plans are then I would address that with Columbia Public Schools because this is just -- we're just asking for easements so that the city as taxpayers don't have to in the future -- if the city wanted to do something with Hickman Avenue or Rogers for either improving the roads or sidewalks or sewers or water, then if we didn't have these easements then the City would have to go buy that land or purchase that property from Columbia Public Schools at our cost. And so this is what we do with

all of our properties throughout the city everywhere. And so we're not at all in anyway lying to you ma'am or trying to hide something from you. This is that we do every work session for properties throughout the city. And you know, there's nothing that we are trying to hide. So I was very offended by that comment. That's something that doesn't apply to me.

MS. HARRISON: I'm offended. Okay. You know, we -- everybody gets to have their own opinion. I stick with mine.

MS. LOE: Any additional comments? Seeing none.

**PUBLIC HEARING CLOSED**

MS. LOE: Commissioner discussion? Mr. MacMann?

MR. MACMANN: I have a question for Staff. Planner Bacon you did say -- and I thought I saw it -- their -- they plan to do if they were to develop the corner locations there?

MS. BACON: Yes. They're required core locations are required with the plat.

MR. MACMANN: Okay. I just -- and we've been -- in North Village we have been very careful to maintain the existing roadways. I just wanted to be sure that -- I found it interesting that they were willing to do that. Thank you.

MS. LOE: Additional discussion? Mr. Strodtman?

MR. STRODTMAN: **I would like to make a motion for approval of Case 05-2019, a request approval on -- on behalf of Columbia Public School District of a one-lot plat -- replat to be known as Jefferson Middle School, Plat Number 1 and design adjustment from Section 29-5.1(g)(4) of the UDC pertaining to dedication of utility easements.**

**MS. RUSHING: Second.**

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

**MS. BURNS: Mr. Harder?**

**MR. HARDER: Yes.**

**MS. BURNS: Mr. MacMann?**

**MR. MACMANN: Yes.**

**MS. BURNS: Mr. Stanton?**

**MR. STANTON: Yes.**

**MS. BURNS: Mr. Strodtman?**

**MR. STRODTMAN: Yes.**

**MS. BURNS: Ms. Rushing?**

**MS. RUSHING: Yes.**

**MS. BURNS:** My vote is yes. Ms. Loe?

**MS. LOE:** Yes.

**MS. BURNS:** Seven to zero, motion carries.

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

**Approval of Case 05-2019, a request approval on -- on behalf of Columbia Public School District of a one-lot plat -- replat to be known as Jefferson Middle School, Plat Number 1 and design adjustment from Section 29-5.1(g)(4) of the UDC pertaining to dedication of utility easements.**

**Yes:** 7 - Burns, Harder, Loe, Rushing, Stanton, Strodtman and MacMann

**Excused:** 2 - Russell and Toohey

### **Case # 08-2019**

A request by Crockett Engineering (agent) on behalf of Quaker Manufacturing, LLC (owner) for approval of a one-lot final minor plat of IG (Industrial) zoned property to be known as *Paris Road Park Plat No. 1*. The 14.14-acre subject site is located at 4501 Paris Road.

**MS. LOE:** That brings us to our next case.

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

MR. SMITH: Yes, thank you, Madam Chairman. The site here is currently improved, the industrial site on a 14.14-acre site as you mentioned. It had previously been on unplatted. The property owners did submit an application to the City for new construction which triggered the need to plat the lot in order to be able to obtain a building permit. This is the subject site along Route B and also Paris Road. You see they have some tree coverage on the south side. The site is currently surveyed all utilities and no design adjustments. The only improvements will be required is sidewalks. And they do require a preservation easement to be recorded along with the plat, so that would be completed. If you notice, that is the one -- part of the plat that has not been completed at this point, but that will be done prior to the recording of the final plat. Other than that, it's pretty straightforward subdivision request. It meets all the requirements of the UDC. And we are recommending approval of the final plat. I would be happy to answer your questions.

MS. LOE: Thank you. Before we move on to commissioner questions I will like to ask any commissioner who has had ex parte prior to this meeting related to Case 08-2019 to please disclose that now so all commissioners have the same information to consider. Seeing none, any questions for Staff? Mr. MacMann?

MR. MACMANN: I have a technical question because this is going to -- this may be for Mr. Zenner. This lot was never platted and now will be essentially redeveloped. Correct? The stormwater regulations which required them to -- or us in general to not

allow any more water -- often -- that's currently going on. Is that detained in the -- are you with me? We don't have a hole there, that's what I'm looking for.

MR. ZENNER: For stormwater?

MR. MACMANN: Yes, because it wasn't platted before and it never crossed my mind.

MR. SMITH: I don't know what the existing stormwater is. I don't know if they were required to provide any stormwater, but I am sure the applicant's representative will probably talk about specific --

MR. MACMANN: I'm trying to get back to the point where the passed the UBC, no more goes off right now. This doesn't --

MR. ZENNER: Most development flows based on the way the stormwater ordinance on undeveloped tracts plan, post-development flow can't be any greater than pre-development flow. There is a flowchart and series of requirements in Chapter 12.a of the code. It's a stormwater ordinance that must be followed by any individual that is proposing to redevelop or add-on to properties that are already existing developed. Mr. Crockett and his engineering firm are well acquainted with that and I will let him explain in greater detail what those standards may be and how they are utilized. But in summary there is a flowchart and if you follow the flowchart and you go down one branch, you have potential more significant stormwater improvements that you have to install. If you follow the other branch of the flowchart, you may not have stormwater requirements and it's all about -- if I'm not incorrect -- how much impervious surface you are adding or taking away. That's very simplistic and non-engineer perspective of how our stormwater ordinance works. And I may be wrong. In general, we have tree reservation which is required as part of our current code which does help to alleviate the offsetting stormwater. That is being corrected at this point and in order to be able to get the building permit, because it is not a legal lot by definition, the platting action comes into play. So what's happened here is an expansion of the building is desired. Our building site development staff has identified it's not only a lot, the permit's delayed. The plat's being potentially improved meaning all of our other regulatory requirements for platting and the permit can be issued subject it meeting or other regulatory standards, which are outside the UDC and stormwater is outside, but in general in a nutshell, post-development flow can be no greater than pre, which means the addition is going to have to be captured somehow on the site if required by our stormwater manual. With that, I think Mr. Crockett may be able to provide the answer more specific to this particular question.

MS. LOE: Any additional questions? Seeing none, if there's anyone in the public that would like to come forward and offer some information that will help us, we would

welcome that.

**Public Hearing Opened**

MR. CROCKETT: Tim Crockett, Crockett Engineering, 1000 West Nifong. I'll start with the purpose of the plat again, it is on platted property. Quaker is in the process of going through a substantial building expansion. They're going to add a Line 6 to that facility, which is going to create a little over a 20,000-square-foot building addition. They put about 25 additional -- 25 additional jobs on the site. So with that, again, we have a large building expansion on this site, Mr. MacMann. So it does trigger a redevelopment classification. However --

MR. MACMANN: Thank you, Mr. Crockett. That wasn't -- Mr. Zenner at length answered the question I **didn't** ask. I appreciate you willing to address that concern.

MR. CROCKETT: We are not only going to address our stormwater from our expansion, but we are going to reduce some of the stormwater implications from existing site. That's where it falls in the chain. With that, again, it's just a straightforward -- sort of a straightforward replat. I'm sorry, a straightforward plat of unplatted properties. I'd be happy to answer any questions should you have any.

MS. LOE: Any questions for this speaker? Straightforward plat questions? I see none. Thank you, Mr. Crockett. Any other speakers? Seeing none, we're going to close the public hearing.

**Public Hearing Closed**

MS. LOE: Commission discussion? Mr. Stanton?

**MR. STANTON: I'd like to entertain a motion.**

**MS. LOE: I would entertain that.**

**MR. STANTON: As in Case 8-2019, Paris Road Plat Number 1, Final Plat, I move to approve.**

**MS. RUSHING: Second.**

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

**MS. BURNS: Yes, Mr. Harder?**

**MR. HARDER: Yes.**

**MS. BURNS: Mr. MacMann?**

**MR. MACMANN: Yes.**

**MS. BURNS: Mr. Stanton?**

**MR. STANTON: Yes.**

**MS. BURNS: Mr. Strodtman?**

**MR. STRODTMAN: Yes.**

**MS. BURNS:** Ms. Rushing?

**MS. RUSHING:** Yes.

**MS. BURNS:** Ms. Loe?

**MS. LOE:** Yes.

**MS. BURNS:** Seven to zero, motion carries.

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

**Case 8-2019, move to approve Paris Road Plat Number 1, Final Plat.**

**Yes:** 7 - Burns, Harder, Loe, Rushing, Stanton, Strodman and MacMann

**Excused:** 2 - Russell and Toohey

## VII. PUBLIC HEARINGS

### Case # 26-2019

A request by A Civil Group (agent), on behalf of Bedrock Enterprises (owners), seeking a major amendment to the existing, "Spring Creek Phase II PD Plan." The property is located roughly 600 feet east of the intersection of Vawter School Road and Scott Boulevard. The purpose of this major amendment is to amend the approved statement of intent to include veterinary hospitals as a permitted use.

MS. LOE: Moving on to public hearing section of the meeting. Our first case is.

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

MR. PALMER: Yes. Thank you, Madam Chair. As you said, the site's located on Vawter School Road, roughly 600 feet east of Scott Boulevard, which you can see on the map there. The overall site is 4.88 acres. And the request would be to amend the statement of intent to add the permitted use of veterinary hospitals. As far as public notice is concerned, there was a public info meeting held on the 13th and there were no attendees, except for the applicant. There were 16 postcards mailed and it was advertised on the 20th. So the property was annexed. Just a little background information first. The property was annexed in 1998 as part of a larger parcel that includes the gas station and the vacant lot here to the southeast. The entire parcel at that time was zone CP without an associated CP plan. At that time C-1 uses were permitted and the service station use was added as a permitted use. If we continue forward with those permitted uses, a veterinary hospital would require conditional use permit and by adding it to the permitted use list it essentially achieves the same goal and it's a similar process. So the applicant chose to use this route. The veterinary hospital would actually be located near the center of the building. I would like to point out in the

Staff report is at the east end of the building. That was brought to our attention today by the applicant after reading that Staff report online. So that was a miscommunication on my part. It will be located roughly in this location. Mr. Gebhardt is here. He may be able to better describe the location. This was placed by a conversation we had over the phone. We may be a little off with that, just so you know. But there is single-family residential to the east and as such as part of the original CP plan and the platted process of this property, there is a 50-foot buffer and tree preservation area required along the east edge of the property. That is shown on the plan and it's also dedicated by the plat. As far as the use is concerned, it will be completely enclosed indoors in the proposed building. There will be no more outdoor facilities proposed or there are no outdoor facilities proposed. That would include straight from the code. It enumerates a number of outdoor uses that would have special circumstances or there would be special circumstance that would require special standards. That would include anything runs, pens, enclosures or exercise yards. The applicant has indicated they don't intent to install any of those items on this property. Everything will be contained indoors. However, there will be some outdoor walking of animals that would occur on the north side of the property and on the east end of the property. So given the limited outdoor activity proposed by the applicant in addition to the 50-foot buffer that is in the distance there, Staff will support the proposed revision to the statement of intent. Also traffic loads will be significant lower for a veterinary hospital compared to some of the other uses on the property or proposed uses, which would include you know, restaurants and retail uses. So given the functions will be within the building and there will be no outdoor boarding of animals, Staff believes impacts to neighbors' properties will be minimized and therefore we support the revised statement of intent. I will be happy to answer any questions.

MS. LOE: Thank you, Mr. Palmer. Before you move on any Staff questions, I would like any commissioners who had any ex parte prior to this meeting related to Case 26-2019 to please disclose that now so all commissioners have the same information to consider. Seeing none, are there any questions of staff?

Mr. Strodman?

MR. STRODTMAN: Mr. Palmer, will you explain the process if the client was or had interest to do some exterior outdoor activities? What would be that process?

MR. PALMER: It would most likely, if it involved a structure of some kind, it would have to be added to the plan which then would be a major plan amendment in most cases.

MR. STRODTMAN: Would a chain-link fence be a structure?



MR. PALMER: I believe so. The structure in the code is anything having a location or attached to something at that location in the ground. It specifically names fences, if I remember correctly.

MR. STRODTMAN: So for my comfort for the neighbors to the east, there wouldn't be -- there wouldn't be that opportunity for an outdoor kennel system to be installed without somehow coming back to --

MR. PALMER: Right. They would have to amend the plan again essentially by the same process and they will be before you again.

MR. STRODTMAN: Good. Because I know -- they would have a different approach if they were having outdoor components versus no outdoor. So I just wanted to clarify that. The future, in case they were, what that process would look like.

MR. ZENNER: I think given the description that we have been provided, I think this would be similar to the Horton's Veterinary facilities that are scattered throughout town where we have a doctor. They do have some overnight boarding because of the veterinary services that they offer. They may board internally, which it was considered as we went through the amendments to the kenneling ordinance that's been then incorporated in the UDC and with a use specific standards. It would operate generally at that scale. We are not looking at an outdoor -- a true outdoor kennel boarding facility where would have runs that will be traversable from the interior to the exterior. And as Mr. Palmer said, if that was the case we would expect to see a major plan amendment that would identifies those features.

MR. STRODTMAN: With that Mr. Zenner, I appreciate that. Thank you. I would be on record to say that, you know, Horton and some of those others do have runs and kennels where the fences being on their facilities and would make me nervous as a homeowner to have the dogs barking to where I don't think this is going to be the case today. I'm voting with the intent that there will never be any chain-link fence or runs unless it comes back to us at a future date.

MS. LOE: Thank you, Mr. Strodtman. Any additional questions? Seeing none, I'd like to open it up to the public comment question.

#### **Public Hearing Opened**

MS. LOE: If there is anyone that would like to make a public comment, please come forward and state your name and address.

MR. GEBHARDT: Thank you. My name is Jay Gebhardt. I'm a civil engineer with A Civil Group with offices at 3401 Broadway Business Park Court. I'm here representing Bedrock, LLC, which is Terry Wilson and Greg Kutzer (ph). We're in the process of constructing this strip mall type of retail building. They've been approached by a vet that

wants to lease interiors space for a veterinary clinic. They do board in a sense that if you're dog's having surgery, they may keep it overnight for observation and things like that, they don't really have boarding as part of a business like the Horton's on I-70 Drive, which has the Pet Fair next door which is completely a boarding type of thing. This is basically -- the owners of the building are concerned about the noise traveling through the walls, not just to the other tenants in the building. So special construction is being considered to attenuate those noises to the adjoining businesses let alone the neighbors. Other than that, I'm here to answer questions and if you have any, I would be happy to answer them.

MS. LOE: Any questions for Mr. Gebhardt? Ms. Rushing?

MS. RUSHING: Do you anticipate that the lease agreement would limit or restrict them from using it as a boarding facility?

MR. GEBHARDT: Yes. I think that is part of the plan.

MR. LOE: Any additional questions? I see none. Thank you, Mr. Gebhardt.

MR. GEBHARDT: Thank you.

MS. LOE: Any additional comments on this case?

MR. CLARK: Good evening. My name is Gary Clark. I am a resident in that area to the east. That 50 feet is very close. We sit right at the very northeast corner of that piece.

MS. LOE: May we have your address, please?

MR. CLARK: 3811 Deer Foot Way.

MS. LOE: Thank you.

MR. CLARK: Sorry about that. I think most of my questions have been answered and I do appreciate it. Not having outside runs. I did not hear how any of the waste was going to be handled of the clinic because with animals there is waste. I didn't hear anything about that and how that is going to be handled and the smell or anything of that nature. The other question that I would have -- I guess I would ask -- I've heard several things here that there's no plans to put an outside kennel. None of that exists today, but I would ask that in approval of this, that that could never be added because that -- I could tell you 50 feet -- I look out my deck and I see the back of that building.

MS. LOE: Ms. Burns?

MS. BURNS: Have you had any discussions with the applicant about additional buffering as far as plantings?

MR. CLARK: If you do that property, it's all filled. Okay. And so -- but was a 45-degree angle is now flat. So coming off of that is a pretty steep angle down into -- we have a -- I call it a runoff creek behind our house. It comes back in, goes into the

floodplain area back into the creek. So there's really not much room. I mean, it's kind of like that (indicating). It slants, so I don't know how you would do any planting or anything.

MS. BURNS: I just **didn't** know if that was something that --

MR. CLARK: No. Good, fair question. I just don't think --

MS. BURNS: And I'm not saying you. I'm saying you as a request of the builder of the site plan.

MR. CLARK: Yeah. Anything like that. I'm not against it. That's not my thing. I just -- owning that property, one of the reasons we purchased it was because it come up against that woods and that floodplain area out to the creek and nothing will be built out there. I'm not against going out there and what they did to do that, but to -- and I have animals so I'm not against that piece. Okay. But having it as a -- I heard there was not going to be boarding kennels, per se, but keeping dogs overnight just that that could never be added would be my request. I don't know of other people in the neighborhood would follow that request as well. I think that's all I have here. Let me see. Type and number -- is this a small animal clinic. I'm assuming?

MR. ZENNER: I apologize?

MR. LOW: The question is this a small animal clinic? So does the description of use get into limiting some size or type of

MR. ZENNER: The definition for veterinary hospital if I recall correctly is -- one moment here. It does not. The definition of veterinary hospital is a hospital or facility where domesticated animals are kept, cared for or bred or boarded, daytime only or overnight, including but not limited to animal pounds, animal shelters and kennels. So farm animal type operations in some codes are called large veterinary hospitals. We don't draw the distinction necessary. Let me look at our use list though. I believe our use list does potentially -- in a planning and zoning district the use is per the statement of intent, so it allowed in any planned district. You get into potential larger animals, we do allow these types of facilities in all of our commercial zoning districts. So you could if you have a horse veterinary clinic, it could be located in one of those permitted offices, a condition use. And then in RMN zone is commercial use, conditional. We do not allow in any residential zoning. So the standards that exist within the planned district other than statement of intent which would control the intensity of the use, would address the operational characteristics. I would suggest to you that it will be different from an enforcement perspective of city staff to be able to determine if the operation is for large or small animals given the fact that it is a retail shopping center configuration. This is not what we would probably classify from an observation perspective staff as a large -- I

mean, you may have large breed dogs, but I don't think of large other animals. The question -- I apologize for being distracted. We were looking at the actual use specific standards that refer to veterinary hospitals, what Mr. Palmer's and Staff report referred to that does have use specific standards about outdoor kenneling and when such features are proposed with a veterinary office or boarding facility. If you are adjacent or within -- we have specific provisions that talk about being within a distance of residential use or residentially-zoned land that may further preclude the ability -- and that's what I was asking Mr. Palmer about -- we do not have anything mentioned at this point, but within 200 feet you have to with outdoor kenneling in -- adjacent to residential property, there is a provision that addresses the issue of separation, if you recall as well as multiple fencing in order to contain any run areas to avoid dogs or other animals from being able to escape. It's a minimum of 200 feet, so veterinary hospitals that provide outside facilities included but not limited to runs, pens, enclosures or exercise areas, which abut residential use or residual zoning shall be subject to the following setback standards; they need to be 200 feet from the residential use or residential zoning district, any outside run, the structure, pen, and enclosure or outdoor exercise yard that has openings and they would be required to be 100 feet from the residential zoning district per use if they did not have any openings. So the idea being it would more of an enclosed structural expansion possibly at that point, which definitely if that were to be asked for would have to be evaluated. We would evaluate the building request, the building the permit application. And as Mr. Palmer pointed out, the structure does include a fence. There are also some other issues associated probably that are controlled within the planning district deal with pervious cover to the site. The run areas may be concrete and things of that nature. So all of that comes into play as it relates to the potential expansion to an outdoor activity. All of that is actually internal and we can only react when we see it on an application for something such as that, which have not had.

MR. CLARK: Very good. I'm fine with that. I guess the part I had and I still haven't heard an answer on is, one is, you know -- is I heard earlier that it was not going to be a kenneling facility. This is going to be a veterinary hospital, which is fine. But would they have the right to move it to a kenneling facility if it was -- since they already have a veterinary --

MR. ZENNER: Based on the definition of a veterinary hospital, yes they could. However, if they went to the outside side of that, if he did do outside kenneling or runs, there would be additional requirements. State statutory standards as it relates to animals that are being kenneled must be met. That's another component of our codes, so there are particular provisions that kennel operators have to do to meet that are at the

state level. We do not reference in our code because those would have to be complied with as well. So it's likely if a business started as a veterinary hospital and wanted to go into kenneling there would need to be a revision to that operational plan and expansion probably of the facilities that were being utilized to facilitate that. That's what would trigger an amendment to the overall development plan, which would then again involve another public process.

MR. CLARK: The last thing and I will get off of here is how is the waste and that kind of thing is going to be handled. We do sit in a runoff area.

MR. ZENNER: That is an issue that is really left up to our Health and Human Services Division, so it is more complaint driven than regulatory monitored. It is not regulatory handled through the zoning process. If that does become an issue, we do have the health -- our Health Department which is engaged in that as it relates to animal and other wastes that may be creating a public health hazard. And they would need to be contacted at the time that that is either identified as an issue and logged as a complaint that they would investigate.

MR. CLARK: So until there's an issue, there's really nothing you can do?

MR. ZENNER: It's -- really that becomes more of a neighbor to neighbor type of thing of making sure they are operating at the highest level they should be operating at and being considerate to their adjacent property owners. Again, Mr. Gebhardt may be able to address that more directly as to what their clients are wanting to -- or how the contract is made more or less. I don't know, though. We do not have the ability to do that.

MR. PALMER: It was indicated to use by the applicant early on that they intend to address waste as it happens, especially on the outdoor side of things. Hopefully it doesn't ever become an issue.

MR. CLARK: Very good. Thank you.

MS. LOE: Thank you. Any additional questions or comments on this case? Seeing none.

**Public Hearing Closed**

MS. LOE: Commission discussion? No. Commission motions? No?  
Mr. Stanton?

**MR. STANTON: As it relates to Cases 26-2019 Spring Creek Phase II PD Plan Major Amendment, I move to approve the revised statement of intent to veterinary hospital on the subject property.**

**MR. STRODTMAN: Second.**

MS. LOE: Mr. Strodtman seconded. We have a motion. Any discussion on that motion? Seeing none, Ms. Burns may we have a roll call, please?

**MS. BURNS:** Yes, Mr. Harder?

**MR. HARDER:** Yes.

**MS. BURNS:** Mr. MacMann.

**MR. MACMANN:** Yes, ma'am.

**MS. BURNS:** Mr. Stanton?

**MR. STANTON:** Yes.

**MS. BURNS:** Mr. Strodtman?

**MR. STRODTMAN:** Yes.

**MS. BURNS:** Ms. Rushing?

**MS. RUSHING:** Yes.

**MS. BURNS:** My vote is yes. Ms. Loe?

**MS. LOE:** Yes.

**MS. BURNS:** Seven to zero, motion carries.

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

**Case 26-2019, move to approve Spring Creek Phase II PD Plan Major Amendment, the revised statement of intent to veterinary hospital on the subject property.**

**Yes:** 7 - Burns, Harder, Loe, Rushing, Stanton, Strodtman and MacMann

**Excused:** 2 - Russell and Toohey

**Case # 18-182**

A request by Luebbert Engineering (agent) on behalf of D&D Investments of Columbia, LLC for approval of a major amendment to the University Chrysler PD Plan. The original development plan (PD Plan) for the site was approved in 1972 and revised in 1975-76 and 1983. The purpose of the PD Plan amendment is to revise to the buffer screening detail on the southern property boundary. The 4.63-acre site is zoned PD (Planned Development) and is addressed 1200 I-70 Drive Southwest. **(This item was tabled at the October 4, 2018 Planning and Zoning Commission meeting).**

**MS. LOE:** Our next and last case is.

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

MS. BACON: Yes. This case was originally covered at the October 4th Planning Commission meeting. There was a public hearing. After about two hours of testimony the applicant and adjacent neighbors agreed, I think pretty jointly, to request a table of the meeting or table the case to tonight as a meeting date certain. I don't have any new information to provide to you this evening. I have a very brief staff report for the public and anybody watching of course. This location is 1200 I-70 Drive SW. It's the current

location of the University Subaru. It has been University Chrysler in recent past. It's 4.63 acres. Tonight you are reviewing a PD or plan development plan amendment, specifically to the screening detail on the southern property line that was provided in the original 1972 Husk Subdivision and PD plan. We sent public -- or we have a public information meeting on 09/11. We had a very robust participation from the public. The Highland Park Neighborhood Association came out in full and had many questions regarding the process for the public hearing process at the Planning and Zoning Commission. There were also questions regarding the technical components of PD plans and what constitutes a minor amendment versus a major amendment and the process to amend thereof. The applicant in -- and the property owner was also there. We also sent postcards advertising that public information meeting and sent to the same 26 adjacent property owners, property owner notification letters, as well as placed an advertisement in the newspaper. I will note because the case was tabled to a date certain, this evening, no additional public follow-up was required by the code. However, we did follow up with the neighborhood association just letting them know it would be scheduled as was agreed upon at the previous October 4th meeting. And we have received a request, which we provided to you for Mr. Zenner on Monday December 3rd from Jade Govero, who is a member of the Highland Park Neighborhood Association requesting to table the case further just noting that there is a legal dispute and that a court date of December 13th has been set. The UDC does allow for the public to make a request to be tabled. It's not something we see very often. Typically, it would be the applicant who would request a tabling, but that process as well as provided per the agenda by Mr. Zenner, is available as well. In terms of the PD plan itself as I mentioned, I haven't heard anything other than the tabling request at the October 4th meeting. I also have not heard anything new from the applicant. I don't have anything new to present. As I mentioned this is a request amend a 1972 proposed Huff Subdivision detailed landscaping, so it would replace in essence a previously existing fence that was not included in original 1972 plan, but has shown up as existing on plan amendments from 1983 and on. It has become a de facto part of the plan. Earlier this year the existing fence was removed and so the proposed replacement of that fence would move the fence ten feet to the south, which would be on the property line of the Subaru dealership. Our current UDC code requirements do specify that is the ideal location for screening fences. In addition to having a fence which does meet our code, it's eight feet tall, the code does require a ten-foot landscape buffer. And so this would replace where that fence was removed. It would be Lot 1 and then the western 97 feet of lot to that Huff Subdivision. The screening detail in terms of the landscaping type do meet the four categories as required by our code, is provided here on the screen. It's

about 197 feet or so across that Lot 1 and Lot 2. And so this plan would only affect this part of the PD plan. So the requesting applicant is not to amend the larger PD plan for this site, but just the specific landscape detail here. You can see on the aerial where the existing -- the formally existing fence was located. And prior plan amendments when the shop addition was put in, you could see the additional fencing was put in here to the east. As so as proposed this plan amendment to put this fence and this fence on landscape buffer would then match up generally with this other existing fence. The landscape buffer we'll note will be on the applicant's side of the property. This is pavement right here, so previously the parking lot pavement directly met the fence. In recent years there was some folks that called it a retaining wall, but really it was more just landscape blocks to help shore up the fence. I've been told by different people different variations of the condition of the fence before it was taken down. I cannot attest to that because I did not personally inspect it. Generally there was a fence here and then it has been removed. There's now some temporary fencing. To my knowledge, the applicant would like to then put in a new fence and new landscaping. Overall, the fence will restore security and privacy to the adjacent properties as well as the Subaru dealership. We have heard from both sides of the nonexistent fence now, that folks traversing to and from is not ideal in this situation. The proposed plan amendment is consistent with what we require in the UC now in terms of the landscape buffer. It will be 10 feet. And then that 8-foot wood fence screening by itself, so it meets the code. The landscape -- the landscaping if approved will require an inspection and our code does allow to take into account weather in terms of planning season. So that inspection would not include -- not happen until spring at the very earliest. This evening we are recommending approval of the PD plan amendment to the Huff Subdivision landscape detail screening as provided. I as well as the applicant, I'm sure, are available to answer any questions.

MS. LOE: Thank you, Ms. Bacon. Before we go on to commissioner questions, I would like to ask any commissioner who has had any ex parte prior to the meeting related to Case 18-182 to please disclose that now, so all commissioners have the same information to consider. I see none. Any questions for staff? Mr. MacMann?

MR. MACMANN: Before go much further on this one, after a couple hours of rather contentious discussion, we agreed to table this case pending a legal hearing, which -- and I don't know this for sure, but it doesn't appear to have happened yet. It was supposed to happen I believe on 20 November. Now, it's supposed to happen on 13 December. Our original intent therefore does not seem to have been met. I'm going to go with the neighborhood's request that they -- table it again. I think it will be wise. I don't



know what anyone else's tensions are, the applicant or the neighborhood homeowners, but I do know Ms. Govero is involved and I believe she's president of that neighborhood association. Before we go on I just want to -- I don't think we have met our original criteria. I just wanted to say that.

MS. LOE: Any discussion of Mr. MacMann's comments? Ms. Rushing?

MS. RUSHING: I join with Mr. MacMann. I think we made it clear that the intent was to postpone our consideration of this request until after the Court had made a determination as to ownership of the property and that has not occurred. And it -- according to the request both parties agreed to a court continuance and so I don't see any reason why we **shouldn't** continue this case until December the **20th**, which should take us beyond the December 13th court date.

MR. MACMANN: I would only add that having been in court for a variety of issues, 13 December may be a fluid date and so 20 December on our part may be a fluid date also. I'm just -- you know, we may be -- we very well could be tabling and tabling until then. I just want to bring that up because different people have different schedules.

MS. LOE: Any additional comments on the table? Ms. Burns?

MS. BURNS: I would like to hear from the members of the public who are to speak about this. I think we owe that and then we can decide whether or not we're going to continue.

MS. RUSHING: I concur. Because there may be extenuating circumstances that we're not aware of.

MS. LOE: Additional comments? Seeing none, I'm going to open it up to public comment.

#### **Public Hearing Opened**

MS. LOE: If anyone would like to make a comment, please come forward and state your name and address for the record.

MR. HOLLIS: Good evening. My name is Robert Hollis. I am an attorney at the Van Matre Law Firm. Our office is at 1103 E. Broadway here on behalf of the applicant. And I appreciate the point made by Mr. MacMann as well as Ms. Rushing. The point being that this was tabled based on litigation which is a discussion in itself whether or not that is beyond proper preview. But I would say, yes, there is a date for one of the lawsuits but there is -- there **was** a date for that lawsuit before. It's been moved. Probably moved again. You know how litigation works. It often drags on and on and on. To move it to the **20th** to get past a potential hearing date of the **13th**, let's say that worked. You still have the O'Neill litigation. That's another property owner where there is litigation that is pending. We sued the O'Neills. The O'Neills had already sued us. The lawsuits went

past each other. Once -- I think everyone has finally been served. There's been a motion which I believe is a joint motion to consolidate the cases. I don't know if there's been a hearing on that yet or not. Long story short, this could be a very long story. It's not be finished by the 20th that is for sure. If you're considering both cases, which I assume you are. Now, to that issue as Mr. MacMann said properly and accurately you can be tabling and tabling and tabling. And that makes the point, which I believe is completely valid that you should not be considering litigation. This board in my humble opinion and I respectfully suggest that you consider the land-use issues that are here in front of you regardless of ownership. Is it a proper land-use decision? Is it in accordance with the ordinances? Not whether or not a land dispute lawsuit may be finished by the date certain. It makes it impossible for you to do your job, to attempt to monitor outside litigation and try to make decisions around when that may or may not reach a resolution. Now, if you're concerned about whether or not your decision has any bearing on a lawsuit or a court, there's none. It is not part of what a court is to consider. Not at all. If the court considered your comments or a decision made by you, you could have made an improper decision. They could do it. A court could do that, but it would be absolutely improper. Appealable, I'm sure. So that should not -- also should not be part of what you're considering. One thing that I don't think that we mentioned last time -- I don't think -- my client is perfectly willing to build the fence to the extent that the fence is permitted to be built such that -- in other words, where a court has not said you *can't* build a fence, we'll build a fence. Of course it is up to the City Council after you make your recommendations. City Council could make a policy decision and say we're not going to consider cases like this if there's pending litigation. That could happen. That would be a policy decision which again I think is not your responsibility, but that's just my opinion. As far as consenting to tabling, I think what I said last time was okay, that doesn't help the neighbors. It doesn't hurt us. It doesn't hurt my client, but it certainly doesn't help the neighbors, the rest of the neighbors that is. The only reason I'm even discussing this -- the only reason I'm putting this information forward is because my client wants what's best for the rest of the neighbors. If the fence is not there it's not hurting us. It's not hurting Subaru in any way, shape, or form, but it is hurting the neighbors. I will leave you with that and I would be happy to answer any questions.

MS. LOE: Any questions for Mr. Hollis's? Ms. Rushing?

MS. RUSHING: Well, it was my understanding from the testimony at our last meeting where we considered this, that the fence was removed without any communication with the neighbors. Are you saying that is not correct?

MR. HOLLIS: That's not accurate. There were discussions. There were discussions

that happened in the fall of the previous year, I think. Discussions about that the fence would be removed. It was dilapidated and falling down. Repairing it was becoming futile. Where the mistake was made -- not a legal mistake, but where the mistake was made and my client admits its mistake is they should have made contact with the neighbors a week prior to tearing the fence down. They should have done that, just out of common courtesy. They *didn't*. That was a failure.

MS. RUSHING: And is time of the essence to your client in this?

MR. HOLLIS: With respect to their concern for the other neighbors, yes.

MS. RUSHING: But *wouldn't* that mean the -- I mean, if it is the neighbors you are concerned about and the neighbors are the ones who want the continuance --

MR. HOLLIS: It's only two neighbors that want a continuance. There are two neighbors that are involved in litigation. It's my understanding the rest of the neighbors would like to see the fence in place as soon as possible.

MS. LOE: Mr. MacMann?

MR. MACMANN: Thank you. Just for clarity sake, Mr. Hollis I have been on different sides of the same court a couple of times and we can both speak to the case that these things do go on a very, very long time or they *can*. I would take issue with Mr. Hollis's interpretation of the neighbors' intentions. And while I agree with him that it would be improper for a judge to make -- let the existence or nonexistence of the fence or anything like that influence over what the city -- influence their behavior, we all know they are human beings and we all know they are influenced by this. This would clearly send a message to the City. Mr. Hollis is shaking his head. I appreciate that. Judges are human beings, *too*. I'm still going to be where I'm going to be.

MS. LOE: Any additional questions? Mr. Hollis, has the Court said the fence cannot be built in any areas?

MR. HOLLIS: There is a temporary injunction in place with respect to the Govero's property. It doesn't say that a fence can't be constructed. I believe it says that no vegetation can be removed. It probably also is written broadly enough that a fence wouldn't be constructed or couldn't be constructed, but it's not with respect to a fence. To my knowledge there is no injunction or restraining order with regard to the other lawsuit, the O'Neills.

MS. LOE: So one property.

MR. HOLLIS: One property.

MS. LOE: Would not have a fence?

MR. HOLLIS: *Right*. The rest of them would have a fence. Again, keep in mind it is just a recommendation with regard to applicable ordinances from you. Obviously, the

City Council decision, if they chose to consider outside external matters of policy then they could do so.

MS. LOE: Were there discussions about the dilapidated condition of the fence held with each and every property owner?

MR. HOLLIS: Each and every?

MS. LOE: Yes. You said there were discussions. We were talking about the property owners being informed. You said yes, they were. I am just trying to clarify was each and every property owner informed.

MR. HOLLIS: Each and every adjacent property owner. I was not there. It's my understanding that that happened. At a bare minimum --

MS. LOE: Each and every --

MR. HOLLIS: -- they were all given notice, but each and every I **can't** say that with a 100 percent certainty. I'm sorry.

MS. LOE: So not each and every?

MR. HOLLIS: I am not saying not. I am absolutely not saying not. It's my understanding that it was with the majority -- and there might have been more than one meeting. I haven't heard anyone say they weren't invited to the meetings or anyone complain that they **didn't** know about the fence back in the fall. What I have heard, the complaint -- this has been consistent and admitted by my client as a mistake, in this spring when it was removed there was no notice at that point in time. I think everyone would say they did not receive notice, as well as my client. Back in the fall I don't think anyone was complaining about that.

MS. LOE: So there were meetings in addition to discussions or the discussions were at the meetings?

MR. HOLLIS: Such as phone calls possibly? Is that what you're asking? I don't know.

MS. LOE: I don't know you. Are the one representing what communication happened. I'm just trying to understand.

MR. HOLLIS: I can't say. I don't know.

MS. LOE: Thank you. Any additional questions for Mr. Hollis? None. Thank you, Mr. Hollis.

MR. HOLLIS: Thank you.

MS. GOVERO: I am Jeremy Govero. I live at 1119 London Drive. I believe I spoke with you all last time around. I am pulling up my notes. I apologize. I **didn't** know I was going to have to take notes, but here we are again. Yes. Several things that I believe Mr. Hollis -- apologize if I say your name wrong -- several things he said that unfortunately

were not consistent with what is going on so far. Yes, we do have a restraining order that they cannot step foot on our property including obviously vegetation, building a fence or anything. The judge has agreed to two hearings in front of them stating they cannot step up our property. That's where it is at right now as far as moving the fence or anything. That is stating where it's current -- or used to be until it was removed. Once again it comes again to the dilapidation of the fence and then the idea that no one was notified. The only reason we found out about was someone heard through the fence. One of my neighbors had a conversation through with fence with someone and say, you know, the guy on the other side of the fence, you know they're going to be tearing down that fence. They said no. Through that, we reached out. We had a meeting with the Subaru dealership, the owners there at the property. There were three neighbors involved with that out of the six that this involves. The other three were never notified. That was almost a full year before randomly one day they cut down the fence with chainsaws because was not in any kind of way falling down. Like I said, because they required chainsaws to remove the fence from where it was at. The idea that there was not contention from the neighbors is just simply not true. As the commissioner mentioned there was a lot of contention here inside of this very building with over 20 people here very upset about the - the way this took place without any kind of notification given on -- the other thing is the idea that this gentleman, again Mr. Hollis, the only damage being done is to the neighbors. I just want you to understand that they are the ones that knocked down -- cut down the fence. The idea that the only damaged being done are the neighbors, the only damage being done is by them, not by us. We **didn't** decide -- we didn't want to come in front of you all. We didn't want to get involved with court process. We all work and this is taking up an insane amount of time for everyone involved and it's very fortunate that we are still here and have to waste your time. So I do appreciate that and the one final piece during this discussion last time when we got to the point talking about tabling the issue, it was actually Mr. Hollis himself who said they have no issue at all in moving forward and waiting until the legality and for the courts to get done, which we all agreed with. It's always a great idea to let the courts make a decision before we move on, which I again agree with today. I ask you all to please continue tabling the issue in moving forward and let the courts take care of the issue. For verification, Jade is my wife and she is not here today. She had our daughter. Was very pregnant last time we were here and we have our daughter now, so that's why she is not what this. But thank you all very much.

MS. LOE: Congratulations.

MR. GOVERO: Thank you.

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

MR. GOVERO: Thank you.

MS. LOE: Thank you. Any additional speakers?

MR. O'NEILL: James O'Neill, 1211 London Drive. Thank you for the opportunity to be here again tonight. I would just like to say that Jeremy Govero laid out as clear as could be and I have nothing else to add to that other than I would appreciate the opportunity for you guys to table this until these other lawsuits are settled. And that's all I have.

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

MR. O'NEILL: Thank you.

MS. LOE: Any additional speakers?

MS. O'NEILL: Kelly O'Neill 1211 London. I'd like to start off by saying that I don't feel that Mr. Hollis has any business saying our feelings in regards to this. I **can't**. They are the ones who tore down the fence. I'm perfectly fine waiting if it takes two years because what's done is done and it's open and we can call police if people come in there. My concern is they want to rush in and do this before the court date. There are very established trees behind my and once they're gone, they're gone. So the consideration in tabling this -- I don't know. We haven't received a court date yet. I don't know that we're going to get one by the **20th** of December to be honest with you. So I'm looking forward to Jeremy and Jade's -- anyway. Thank you.

MS. LOE: Thank you. Are there any questions for this speaker? Mr. MacMann? We do have a question.

MR. MACMANN: Ms. O'Neill, just real quickly, is the circuit court here? Is that where you guys filed the case?

MS. O'NEILL: Uh-huh.

MR. MACMANN: Okay. Everyone is in the same house then? All right.

MS. O'NEILL: Also too, for the record, I was never notified. I was never invited to a meeting. All the stuff that he said in regards to all of the six neighbors -- when I found out about it is when I came over. I got a phone call from my husband that they took the fence down. I never knew anything. He can't even answer these questions, so he probably knows **too**. Anyway, thank you.

MR. LOE: Thank you. Any additional speakers on this? Seeing none, I'm going to close the public hearing.

**Public Hearing Closed**

MS. LOE: Commission discussion?

MS. RUSHING: I have a question for Staff. If we have to table to a date certain how

do we handle this situation?

MR. ZENNER: My recommendation would be that you do not table to a date certain.

MS. RUSHING: I understand that is staff's recommendation.

MR. ZENNER: That's given based on the fact Ms. Rushing that there is no definitive deadline at this point. We will be continuing to prolong and prolong it. As we get further and further away from the originally advertised deadline or the advertised public hearing for this, it does create an impact as it relates to public notification and the process that we follow for notifying residents and having provided adequate public notice. There are options that exist other than tabling it.

MS. RUSHING: So we might be better off just denying the application and they could come back after the litigation is --

MR. ZENNER: Provided counsel, a denial of this body would go to planning -- or go to City Council and provided it is denied by City Council, they are not able to come back with substantially the same application for 12 months, which means the litigation would be completed in a short period of time and because they were denied they would not be able to come back to modify the plan. Now, that's depending on the outcome of the litigation. They may not need to be coming back with a plan because if -- depending on the outcome of the litigation, the area and the buffer required is not going to be **their** property anymore possibly. So it becomes the property then maybe of the adjacent property owners who would be potentially obligated to comply with the current CP plan screening requirements. The other is you could request the applicant withdraw the application at this point and resubmit when the court proceedings had been completed, at which point there will be a resolution and we will either get an application back or we wouldn't get one back and we would resolve the issue of continuing to push this issue further and further away from its original advertised public hearing, therefore, diluting its obvious understanding within the neighbors. I doubt that that will go away, but again, it becomes more of a tracking issue for Staff. So that would be why I would suggest not tabling it to a date certain. You have two options: You could ask the applicant to withdraw; if you choose not to, you have an opportunity to vote up or vote down.

MS. BACON: Mr. Zenner, just a point of fact. If the applicant withdraws they can come back any time, not the 12 months. Correct?

MR. ZENNER: That is correct. Withdrawing at a Planning Commission level withdrawing an application prior to the action of the Planning Commission and the prohibition on resubmission is withdrawing an application that has been denied by the Planning and Zoning Commission cannot come back for 12 months. If Planning and Zoning Commission approve this action and then it was denied by Council, the inability

for to be able to come back -- or withdrawals it -- I apologize. It's been denied by Council, the 12-month restriction does apply. But if approved by this body and withdrawn prior to getting to City Council, they could bring it back the following month. But that's not where I believe this might be headed. That's what I offer for your suggests. If you want to table to a date certain, given where we are heading at this point the year, I would suggest that it is probably not appropriate to bring it back until sometime late January or early of February 2019.

MS. LOE: Discussion? Mr. MacMann?

MR. MACMANN: Although I disagree with Mr. Hollis, I like Robert. I would like this -  
- I think this moment might call for an Anthony Stanton outreach. Are you with me on this Commissioner Stanton?

MR. STANTON: On tabling?

MR. MACMANN: Well, I would say -- say my interpretations are incorrect, that's fine they can be incorrect. If we vote this down you and your clients essentially face a 12-month prohibition. If you all withdrew it, you could bring it back shortly. Right?  
Resubmit?

MR. ZENNER: That would be correct.

MR. MACMANN: A couple of months? Three months to go back in the cycle again?

MS. RUSHING: It would depend on the litigation schedule and I don't know that any-

MR. MACMANN: Well, we'd still not be tied directly to the litigation.

MS. RUSHING: Well, but I would have the same concerns with regard to granting them the ability to do something I'm not sure they have the right to do.

MR. MACMANN: I am with you there. I am.

MS. RUSHING: So if we would like to see that issue settled either by the court or by agreement between the parties, then you know I would want to either see them withdraw their application and bring it back when the legal issues are resolved or we can vote it down.

MS. LOE: Mr. Strodtman?

MR. STRODTMAN: I'll make a note that I was not here at the last minute. I was out of town, so I apologize for not being here on the previous one. It seems like there was a lot of discussion on this. So that's my first statement. So going in with that said, I'm struggling with my role as a Planning and Zoning commissioner. If I approve this PD Plan amendment, which basically is installing a fence with the proper buffering, I don't see where my role -- I don't know in my six years of being on this commission that I've ever had to worry about a legal interpretation of something that is maybe outside of my wheelhouse, if that makes sense. So I'm probably missing some information on what



was discussed at the last meeting that maybe is the piece I'm missing. But to me the fence and the buffering is within our -- my wheelhouse of Planning and Zoning, but who owns that land and any trees and exactly where that fence falls, we never really get into on other cases. And maybe it's always never been challenged that there was a legal dispute as to who owned that actual property. I don't see that that falls into my responsibility, if that makes sense.

MS. LOE: I think I made the same statement at the last meeting, Mr. Strodman, that to me it's clear-cut what we are evaluating and what we are opining on. But based on the discussion at the last meeting I could also understand how our decision could influence or be construed to include some interpretation of who might own that land. I have to admit this go around I am very uncomfortable approving a plan that shows a fence going across a property that has a current injunction in process. That fence currently can't be built. To me it throws a little bit more into the gray area.

MR. STRODTMAN: Mr. Zenner, maybe even José, help me with this. I mean, is that the Planning and Zoning Commission's responsibility is to clarify who owns something? I mean, wouldn't the assumption be that if they build it and it's not theirs, there's consequences? I mean, that's not my job.

MR. CALDERA: So whatever action you all take tonight, let's say you were to approve. It doesn't matter. That does not get around the injunction actions on Mr. Hollis's client. To over simplify this Mr. Strodman, your point is correct which is you all are dealing with this specific issue and are not making a determination about the underlying legal rights. Now, Mr. MacMann's concern and Ms. Rushing's concern is that this might have some kind of persuasive effect on a court. I'm not go to speak to that because that is up to the judge. What I will tell you is that you do have the authority to proceed with a vote on this; up, down, table, whatever you want to do. It will not have -- I do not believe it has any legal determination on the underlying ownership. Okay.

MS. LOE: Mr. Stanton?

MR. STANTON: I'm in the same boat as my colleague. I was also gone during the same meeting. I understand we missed a humdinger. I agree with my colleague on one hand but also I don't want to influence the decision of the court either. I feel like a win-win for you would be to step back and let the chips fall. That's just me. Even though I know that this is -- seems to be a clean-cut action as far as our role, but it seems like some people are just too happy to see this get voted real quick. And when I see speed, I did to want to see why that is.

MS. LOE: Ms. Rushing?

MS. RUSHING: I still fail to see why time is of the essence here. I don't think that

our decision would affect the court and that's not why I hesitate to say yeah, go ahead and build that fence. I'm looking at what was done and the statement that if we approve this, they're going to go out as soon as they can and put that fence up when they could easily, as far as I can tell, wait until the issue with regard to ownership is resolved. I just -- they're -- they are asking me to say yes, go build a fence on property that I know the ownership is in dispute. I'm not going to make a decision as to who owns that property. I don't know who owns that property. Not knowing who owns that property, how can I say you can build a fence on it.

MS. LOE: Ms. Burns?

MS. BURNS: I'm also -- I don't see the rush in this. I think I would like to do this right and not look back and think we have some unintended consequences. I also to Mr. Strodman's point, we receive information and we have papers and reports from Staff and indications but we also public hearings. People's opinions matter. It is important that we listen to people who are involved and affected by these cases and that weighs with me. I think about what I hear in these comment sessions and that helps me form my opinions and the way I vote.

MS. LOE: Mr. MacMann?

MR. MACMANN: To simplify -- to speak to some of our folks who were not here -- maybe you did read all of the details in the minutes. Some of the property owners are very concerned about established vegetation, serious trees on there. And some of you mentioned you cut my tree down, yeah you could pay me for it later if it's found to be another person's tree. The tree is gone. This is not a simple case. It's not straightforward. There is no rush to it. I don't want to make a wrong decision one way or another.

MS. LOE: So is there some agreement among the Commission about an option other than a motion? Do we need to make a motion if we want to ask them to withdraw?

MR. ZENNER: Withdraw of the case is the applicant's choice.

MR. CALDERA: In order to ask that question you would have to open the public hearing and ask it of Mr. Hollis.

MS. LOE: I guess I'm asking the Commission if we want to go there.

MR. MACMANN: Before -- it's only fair to Mr. Hollis and his clients that we ask them rather than assuming what their course of action may be.

MR. CALDERA: And just to be clear, once we open the public hearing Mr. Hollis will have an opportunity to speak, but so will anybody else that would like to respond.

MS. LOE: I understand. Are we ready for opening it back up? Okay. We're going to open back up the public hearing.

**Public Hearing Reopened**

MS. LOE: Would anyone like to come forward? Please state your name and address for the record.

MR. HOLLIS: Robert Hollis, 1103 East Broadway for the applicant with the Van Matre Law Firm. I came up here to answer any questions.

MS. LOE: I think we have a question of, of the options available to us it seems like if the applicant withdrew that may provide you with the most opportunities moving forward. Therefore, we would like to pursue that first.

MR. HOLLIS: I will try to make a short response. I think it would set a horrible precedent to consent to withdraw, withdraw or even a tabling based on information that just has no bearing on the decision. To the extent that a tree would be cut down, that is potentially the court. With that said, my client would not agree to withdrawing or frankly tabling it again. The rush, again, is to protect the additional neighbors, the neighbors where we have put temporary fences up for now because that's just based on their request. And again -- I haven't asked my client this but I think if you did choose to table it we would rather you vote no. Just vote no. But if you did chose to table it for some -- if we went to February -- we don't even have the parties straight in the O'Neill case. We're not even close. We'd just be back here again. So if you did choose to do that, my recommendation -- I don't know if my client would do this -- my recommendation would be to request that the city manager place this on the Council's agenda, which can happen.

MS. LOE: I believe the alternative is denial. If you choose not to withdrawal, we are going to deny.

MR. HOLLIS: Excellent. Thank you.

MS. LOE: Thank you. Any additional public comment?

MR. O'NEILL: James O'Neill, 1211 London Drive. For the gentlemen that missed the last meeting part of this also involved not just some trees, but the area in question has been taken care of by the homeowners in that area for well, probably in the area of 20 years. The various different residents have landscaped that area to their liking. Some may have a natural growth type of thing. Some of them might have bamboo. In our case we have landscape timbers and mulch all the way to where the fence was. In our area, the fence wasn't in any type of dilapidated state at all except at the very bottom where the University Chrysler had done some graveling behind the blocks and cross to the bottom of the fence. So I am with whatever your decision is. I think there is an opportunity by not withdrawing because it seems like at that point reapply the very next day whereas if you deny it then they're kind of out of luck until a year from now. All I can say is I wanted to fill some of you fellas in on what some of the issue was. From that,

thank you for the opportunity to speak again.

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

MR. GOVERO: Jeremy Govero, I live at 1119. I want to clarify one more time Mr. Hollis saying there were six neighbors that were affected by this fence line. One is Lloyd, he lives next to me. I talked to him on the phone before I came and a close friend past away and was not able to be here. Once again the idea that this is somehow only affecting two neighbors, that we're the only ones that care is absolutely ludicrous. Anyone who was here for the last meeting knows that is absolutely not true in any way. We had over 20 people here before, all very unhappy with this and the way it's been taken care of. It is affecting a lot of people. Everyone is not okay. The reason they put in a temporary fence is to stop people from walking through, which should have been done as soon as you decided to take down the fence. Nonetheless I appreciate all of your time. I wanted to make that clarification. Once again, this is not okay with four of the six neighbors in any way whatsoever just because they are not here to. They were all here last time. That was the discussion that was had.

MS. LOE: Thank you. Any questions? I see none. Thank you.

MR. GOVERO: Thank you so much.

MS. LOE: Mr. Stanton?

MR. STANTON: Is it proper for me to ask Mr. Hollis to come up to the podium?

MS. LOE: Mr. Hollis could you come back up? I think we --

MR. STANTON: We didn't close the public hearing. Right?

MS. LOE: We have not.

MR. STANTON: I'm looking for a win-win, you know that.

MR. HOLLIS: Yes, sir.

MR. STANTON: Okay. So in my mind I'm thinking you're not willing to withdraw because you haven't talked to your client, you don't feel like making that decision or you are just saying that is not an option, if I give you a chance to figure it out with your client?

MR. HOLLIS: Correct. That's not an option.

MR. STANTON: Okay. Thank you.

MS. LOE: Any additional comments? Seeing none, we're going to close the public hearing.

#### **Public Hearing Closed**

MS. LOE: I guess a technical question is a denial -- are we making a motion and then voting on it or are we doing something else?

MR. ZENNER: It would be a motion. I think the way we've -- we would like to do this

is, this is a motion in the affirmative, everybody then votes no, which would serve as a denial.

MS. LOE: Thank you.

MR. ZENNER: So long as everybody's clear on that. Don't vote the opposite way.

MS. LOE: Mr. MacMann?

MR. MACMANN: I would be willing to make that motion. I just want to make sure all commissioners, particularly the two gentlemen who were not here the last time had the opportunity to ask any more questions or --

MS. LOE: We'll have discussion on the motion.

**MR. MACMANN: With that in mind, my friends, in the matter of the University Chrysler PD Plan in Case No. 18-182 I move for approval.**

**MR. STANTON: I second.**

MS. LOE: Second by Mr. Stanton. We've a motion on the floor. Any discussion on that motion? Mr. MacMann?

MR. MACMANN: Just to be clear and to follow up on the attorneys and our city planners advice, I will be voting no. Just to be clear.

MS. LOE: Thank you. Any additional comments?

MR. STRODTMAN: My only comment would be I just want for future -- I think we are in some ways in my opinion crossing a line that is not our responsibility. I think it is the City and the courts' responsibility to determine ownership and not ours. We are granting a fence and landscaping. We are not granting ownership. That is outside of my responsibility and so I will be voting yes.

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

MR. STANTON: Like a counter-argument to my colleague's statement. Though I agree with him, I feel like we're doing the same thing by setting a precedent by not allowing -- there's something in here that's not right. I feel like what is time? It seems like all parties are not willing to deal with that time, so we're faced with the decision we are at. I don't want to make a precedent in the other direction either. I plan to vote no.

MS. LOE: Additional comments? I'd like to say that I concur with Ms. Rushing's statement that we are being asked to make a decision on land that is in dispute and I do feel uncomfortable with that. If this was not in dispute, I do agree that it would be a clear decision. Any additional comments? Seeing none, Ms. Burns may we have a roll call, please?

**MS. BURNS: Mr. Harder?**

**MR. HARDER: No.**

**MS. BURNS: Mr. MacMann?**

MR. MACMANN: No.

MS. BURNS: Mr. Stanton?

MR. STANTON: No.

MS. BURNS: Mr. Strodman?

MR. STRODTMAN: Yes, ma'am.

MS. BURNS: Ms. Rushing?

MS. RUSHING: No.

MS. BURNS: My vote is no. Ms. Loe?

MS. LOE: No.

MS. BURNS: Six to one, the motion is denied.

Case No. 18-182, move for approval in the matter of the University Chrysler PD Plan.

Yes: 1 - Strodman

No: 6 - Burns, Harder, Loe, Rushing, Stanton and MacMann

Excused: 2 - Russell and Toohey

**VIII. PUBLIC COMMENTS**

MS. LOE: Are there any comments of Staff -- or public? I'm sorry. We've captured it all.

**IX. STAFF COMMENTS**

MS. LOE: Any comments of Staff?

MR. ZENNER: Yes, we have some. When have we had a meeting without me speaking? December 20th is your next Planning and Commission meeting. It's our holiday -- our holiday meal. You may get to see me in a Christmas hat and a tuxedo vest again, maybe not. But we do have other items on the agenda other than my dapper apparel that I may be wearing. You have several items, one of a deferred subdivision action for Phi Kappa Psi, with the design adjustment that we tabled for tonight. You will have the premier of that. Our Westbury Village rezoning as well as a proposed preliminary plat. This is a public hearing, subdivision combo. We are taking a roughly -- just under 40-acre tract of land that is currently zoned planned district that is being proposed to put in straight zoning and the company in that will be a preliminary plat showing the infrastructure layout for that development. You also have several additional public hearing items on the agenda. We have our wastewater treatment plant. This is the permanent zoning request and historically we would have said annotation of permanent zoning. However, under our new processes we are dividing permanent zoning in the annexation processes. This is to apply permanent zoning to what is now county

property that our public water works facilities sit on. Separate annexation petition as well as a request will be presented to City Council concurrent with the recommendation. We also have the text change that we talked about tonight in work session. That is scheduled for a public hearing and a vote. Then the final item on the agenda schedule will be public comment as it relates to our ongoing discussion associated with short-term rentals. This is an item to take in additional public comment, we have not yet received between our November 20th and 29th meetings and we will be preparing for the commission's consideration a revised version of the current draft of standards that have been utilized up to this point, which will incorporate some changes reflective of existing comments that we have received. It is likely that that draft then will change following public comments we received on the 20th of December and it is at the 20th of December's meeting that we will need to make a determination of when we what like to potentially schedule that for a formal public hearing that would have a vote of the Planning Commission recommending action on those changes to the City Council. With that, just pull you in as to where we are located here. The Phi Kappa Psi property -- again, they are at Burnham and Providence. Our property here at Westbury Village, both maps will look almost identical. It is just the title that has changed. This is at the northwest corner of Scott and Smith as well as it has a portion, a small parcel of property to the south of Smith Drive, roughly about a 40-acre tract of land. This is Old Tosini track if you all have been around town long enough and maybe that name rings a bell, south of the Christian Fellowship School. There is the preliminary plat for that and then our water treatment property that will be sought for permanent zoning. This is generally south of where our sewer treatment facility is, which is what looks like the fishhook there up in the northwest corner of the map, with a dark purple line around it. We will have a series of other items on our work session agenda as well. As we discussed this evening will be moving our -- continuing discussion as it relates to the stakeholder report for Rock Quarry Road. That will likely come forward in January to allow time for us to take care of some of our other items that we've had to move to the side as a result of some of our other discussions we have been having in the work session. So we will happily be coming back around to the issue with the companies plan, implementation table. I know Ms. Loe had an item she would like us to talk about as well and we will coordinate on that as to what shows up on the agenda. Then we will have our regular holiday meal. Meeting starts at 5:30. Please come early so the food is warm for you. We will get you here by 7:00 and we will hopefully be able to get out about this time on the 20th as well. That's all we have to offer for you this evening. Thank you for your time and attention.

MS. LOE: Thank you, Mr. Zenner.

**X. COMMISSIONER COMMENTS**

MS. LOE: Any comments of the commissioners?

**XI. NEXT MEETING DATE - December 20, 2018 @ 7 pm (tentative)**

**XII. ADJOURNMENT**

MR. MACMANN: I have a motion.

MS. LOE: Mr. MacMann?

MR. MACMANN: I move we adjourn.

MR. STANTON: Second.

MS. LOE: Mr. Stanton seconded. Thank you. We are adjourned.

(Off the record.)

**Move to adjourn.**