

**MINUTES**

**PLANNING AND ZONING COMMISSION MINUTES**

**APRIL 6, 2023**

**COMMISSIONERS PRESENT**

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

**COMMISSIONERS ABSENT**

**Ms. Shannon Wilson**

**STAFF PRESENT**

**Mr. Pat Zenner  
Mr. Brad Kelley  
Ms. Rebecca Thompson**

**I. CALL TO ORDER**

MS. GEUEA JONES: I am going to call to order the Thursday, April 6, 2023 Planning and Zoning Commission meeting.

**II. INTRODUCTIONS**

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

MS. CARROLL: Commissioner MacMann

MR. MACMANN: Present.

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

MS. GEUEA JONES: Here.

MS. CARROLL: Commissioner Placier?

MS. PLACIER: Here.

MS. CARROLL: Commissioner Kimbell?

MS. KIMBELL: Here.

MS. CARROLL: Commissioner Wilson? Commissioner Loe?

MS. LOE: Here.

MS. CARROLL: Commissioner Stanton?

MR. STANTON: Present.

MS. CARROLL: Commissioner Burns.

MS. BURNS: Here.

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

MS. GEUEA JONES: Thank you.

### III. APPROVAL OF AGENDA.

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

MR. ZENNER: No, there are not, ma'am. Oh, I take that back. Yes, there are. We did receive an additional -- we received a request to extend the tabling for 95-2023 and 96-2023, and I will describe that extended request in the presentation.

MS. GEUEA JONES: Thank you. With that small adjustment, do I have a motion to approve the agenda?

MR. MACMANN: Move to approve as amended.

MR. STANTON: Second.

MS. GEUEA JONES: Moved by Commissioner MacMann; seconded by Commissioner Stanton.

A thumbs-up approval of the agenda? Thank you very much.

(Unanimous vote for approval.)

MS. GEUEA JONES: That's unanimous.

### IV. APPROVAL OF MINUTES

MS. GEUEA JONES: We have all received a copy of the March 23rd, 2023 regular meeting minutes. Are there any changes or adjustments to the minutes?

MR. MACMANN: Move to approve.

MR. STANTON: Second.

MS. GEUEA JONES: Moved by Commissioner MacMann and seconded by Commissioner Stanton. Could I get a thumbs up approval on the minutes?

(Seven votes for approval; one abstention5.)

MS. GEUEA JONES: That is unanimous with one abstention from Commissioner Kimbell.

Thank you very much.

### V. TABLING REQUESTS

MS. GEUEA JONES: First item up on the agenda tonight is a tabling request.

#### Case Numbers 95-2023 and 96-2023

**Requests by Crockett Engineering (agent), on behalf of Mid-Am Development, LLC (owner), for approval of a 13-lot preliminary plat and a rezoning of approximately 18.32 acres of property from the M-OF (Mixed Use-Office) district to the M-C (Mixed Use-Corridor) district. The subject site is located at the southeast corner of Providence Road and Veterans United Drive. (A request to table this item to the April 20, 2023 Planning Commission meeting has been received. This is the applicant's second request.)**

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

MR. ZENNER: Yes. As we indicated at setting the agenda, we do have a request to table Cases 95-2023 and 96-2023. 96-2023 was advertised for a public hearing. That is the rezoning action.

95-2023 is the preliminary plat. The original notice for a second tabling was initially submitted for April 20th, which is your next meeting; however, after reviewing the comments that were provided back to the applicant on our review, it was concluded at the beginning of this week that that May 20th [sic] deadline would not be sufficient. Therefore, they have submitted a substitute request for May 4th for this project to be tabled to date certain. It is staff's opinion that that is a sufficient period of time by which to address the outstanding comments, allow us the opportunity to develop a development agreement, and have substantial agreement on its terms as it relates to the preliminary platting action, and then be able to bring it forward to you for consideration. So we are supportive of this second request. It does allow us an additional two weeks by which to work through the outstanding issues.

MS. GEUEA JONES: Thank you very much. Any questions on the tabling motion?

Mr. MacMann?

MR. MACMANN: Mr. Zenner, will this be re-noticed?

MR. ZENNER: No. Because we are tabling to date certain. We can re-notify or notice the surrounding property owners. There are not many. There are only probably about four to six property owners, many of which are of the same LLC, so that won't be an issue. We can do that and -- but the advertising --

MR. MACMANN: Uh-huh.

MR. ZENNER: -- given that we are tabling to a date certain, is going to be sufficient.

MR. MACMANN: I would -- I don't know how the other Commissioners feel. I would -- given this is the second tabling, although we knew this was probably going to happen, or we were aware that it might happen, I would be more comfortable if at least the property owners were notified. Does anyone have any concerns with that?

MS. GEUEA JONES: I think that would be a very good idea.

MR. MACMANN: Yeah. I -- all right. I think whenever we make a motion, that that be included.

Thank you, Mr. Zenner.

MS. GEUEA JONES: Thank you. Since this was advertised, at least one of the cases was advertised for public hearing, I will open the floor to any public comment.

#### **PUBLIC HEARING OPENED**

MS. GEUEA JONES: Is there any public comment on the tabling request? Seeing none.

#### **PUBLIC HEARING CLOSED**

MS. GEUEA JONES: Commissioner comment? Commissioner MacMann?

MR. MACMANN: It's the Mike show today. Thank you, Madam Chair. I have a motion. In the matters of 95 and 96-2023, I move to table them to date certain for 4 May 2023 with the caveat that the surrounding property owners be re-notified.

MR. STANTON: Second.

MS. GEUEA: Thank you. There has been a motion to approve the tabling request with the

caveat that the property owners be renotified. Motion by Commissioner MacMann, seconded by Commissioner Stanton. Is there any discussion on the motion? Seeing none. Commissioner Carroll, may we have a roll call.

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

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

MS. GEUEA JONES: Thank you. Those cases will be tabled to the May 4th meeting and staff will renotify property owners.

**Case Number 123-2023**

**A request by A Civil Group on behalf of the Green Meadows Property LLC (owner), for approval of a four-lot Preliminary Plat of R-1 (One-family Dwelling) zoned property, to be known as Quail Creek West Plat 8. The approximately 18.42-acre subject site is located southwest of Smith Drive and Louisville Drive, and includes the address 825 Louisville Drive. (A request to table this case to the April 20, 2023 Planning Commission meeting has been received.)**

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

MR. ZENNER: Yes. As noted, a request to table this four-lot preliminary plat has been sought to the April 20th meeting. That is a two-week turnaround. At present, we are awaiting some revisions to a geotechnical report. If you recall, back when this project was originally presented a little bit over a year ago, this particular parcel is actually laden with a number of sinkholes on the property. It reached City Council. City Council, if I recall correctly, did not take final action on it, or they did. I believe it was denied. And, in essence, the geotechnical report was furthered. The geotechnical report came back in. There were some staff comments as it related to the location of certain features. And Mr. Gebhardt's staff and a consultant are working on getting those revised. We believe that that will be taken care of with sufficient time to rewrite or finish writing the staff report. The staff comments aside from the geotechnical-related issues were relatively minor. Therefore, we're just wanting to make sure that the technical components associated with where driveways may be placed and where potential future building sites are were more thoroughly laid out within the findings of the report, and that is what we're waiting on. So it is not staff's concern that this request for a single meeting delay is unreasonable for us or the applicant to meet their obligations.

MS. GEUEA JONES: Okay. Thank you. Any questions for staff? Commissioner MacMann?

MR. MACMANN: Just a reminder. I don't remember every detail. This is karst-laid property, is it not? Is this a DNR issue on this or --

MR. ZENNER: No.

MR. MACMANN: -- or is this ours?

MR. ZENNER: This is ours. We are -- we are very -- given the number of sinkholes that are on

the property, and the proposed development, w4e are wanting to make sure at this point that the i's are dotted, and the t's are crossed.

MR. MACMANN: I think that's a wonderful idea, Mr. Zenner. Thank you very much.

MS. GEUEA JONES: Anyone else? Was this advertised for a public hearing?

MR. ZENNER: This is a preliminary plat, so, no, it was not.

MS. GEUEA JONES: Okay. I did not think so, but better to ask. In that case, I will open the floor in any case to the public hearing.

#### **PUBLIC HEARING OPENED**

MS. GEUEA: Any public comments? Seeing none.

#### **PUBLIC HEARING CLOSED**

MS. GEUEA JONES: Any Commissioner comment on the case? Mr. MacMann?

MR. MACMANN: I have a motion. No questions or concerns? In the matter of Case 123-2023, I move to table until date certain 20 April 2023.

MR. STANTON: Second.

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

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

MS. CARROLL: We have eight yes. The motion carries.

MS. GEUEA JONES: Thank you. That case will be tabled to the April 20th, 2023 meeting.

#### **VI. PUBLIC HEARINGS**

##### **Case Number 125-2023**

**A request by A Civil Group (agent), on behalf of Gary and Brenda Lewis (owners), seeking to rezone *Lot 7 of Corporate Lake Plat 14*, from PD (Planned Development) to M-C (Mixed-Use Corridor). The 1.26-acre subject lot is located northwest of the intersection of North Cedar Lake Drive and Santana Circle.**

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

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

Denial of the M-C zoning map amendment.

Alternatively, if believed appropriate and supported by the applicant, the Planning Commission could recommend approval to rezone the parcel to M-N, which is consistent with the adjacent zoning, land use patterns, and restrictions of the existing PD zoning entitlement.

MS. GEUEA JONES: Thank you. Before we go to questions for staff, if any of my fellow Commissioners have had outside communications with the applicants or other interested parties on this

case, please tell us now. Seeing none. Are there any questions for staff? Commissioner -- I'm going to go to Commissioner Burns first this time.

MS. BURNS: Thanks. The Mike show is over. I'm sorry.

MR. MACMANN: Thank you.

MS. BURNS: You know. And, Mr. Palmer, this might be a better question for the applicant, but do you know who owns the property just to the west of the property we're discussing right now, or --

MR. PALMER: It's actually the applicant. He owns a number of properties in the area.

MS. BURNS: Okay. Thank you.

MS. GEUEA JONES: And Mr. -- Commissioner MacMann, anything?

MR. MACMANN: Thank you, Madam Chair. Jill will be glad for what I'm about to say. I don't see a problem with the M-C here with the following caveats. Right now -- I know it's the same property owner. If we could maintain that M-N barrier is fine. My concern, and I was just down here this weekend twice, to describe the traffic flow as problematic or having deficiencies down there might be generous. I think for everyone except the people across Santana, this would be okay. That's my only hangup on this. If it's M-C, particularly if it turns into light automotive, you know, something like that. Do -- in staff's opinion, would M-N provide that -- those residential units there with more protection?

MR. PALMER: It definitely limits the intensity. You know, hotels, indoor recreation, entertainment, those sorts of uses wouldn't be permitted. Those are the types of uses that we'll see the high vehicular traffic.

MR. MACMANN: One of the reasons I would -- thank you. And one of the reasons I would support M-C is I don't see a problem with those things down here. I kind of see that M-N thing is in the wrong place, but there's nothing we can do about it right now. But I do have a problem. The traffic is deficient is an interesting, applicable way to describe the traffic down there. Thank you very much. Madam Chair.

MS. GEUEA JONES: Thank you. Do any of the other fellow Commissioners -- Mr. Stanton?

MR. STANTON: I think M-N is a win-win. M-N is a win-win because it decreases the intensity. The surrounding areas are kind of more in that line of intensity, plus it's already zoned M-N up top. And I think, just my opinion, this is a chess move. We give him M-C, he goes back and gets the M-C for the other piece, and we make this all M-C, and then he -- there we go. So I think M-N is a win-win.

MS. GEUEA JONES: Yeah. Question for legal then. They don't have to change the case number? I've never done it this way before, and I understand the applicant would have to consent. If the trend -- yeah. Sorry. Sometimes I forget we have the internet listening. I promise we'll get to you, Jay.

MS. THOMPSON: We don't need to change the case number. You can -- you can consider a different zoning, a down zoning to M-N versus the M-C that was originally requested. I would recommend that you check with the applicant as to what their desires are.

MS. GEUEA JONES: Obviously. Yes. Yes. Thank you. Any other -- oh, sorry.

Commissioner Stanton, go ahead.

MR. STANTON: So in hearing our legal advice, are we to vote this up or down, or ask the applicant if he's cool with the win-win?

MS. GEUEA JONES: First, you have to actually do the public hearing. So, Yeah. Yeah. Yeah.

MR. STANTON: Well, I'm just -- I'm getting the scenario up.

MS. GEUEA JONES: Yeah. Yeah. Yeah. Yeah. Yeah. Yeah. Yeah.

MR. STANTON: Okay.

MS. GEUEA JONES: Yeah. That's right. If -- if the applicant is cool with it, we'll vote it up-down as M-N. Yeah. Anyone else, questions for staff?

MS. CARROLL: Yeah.

MS. GEUEA JONES: Commissioner Carroll?

MS. CARROLL: You talked a bit about the concern of zoning creep. Just for the -- I guess the benefit of the hearing and those listening, I wonder if you could talk about the consideration surrounding that concern, and what sort of path would have to be taken that could lead to zoning creep for some of the adjacent properties?

MR. PALMER: Yeah. Just in looking at the zoning map, when you cross a barrier such as a roadway, so you see here M-C. I think my zoning map may be a little more -- so south of North Cedar Lake Drive, you have the darker red. That's M-C. When this -- if this were rezoned M-C, it would jump across the roadway there, which acts as a barrier of some kind. And, you know, there's -- there's, like, a back and forth here because you might also consider that to be a traffic corridor, which is kind of where you would like to see those types of uses. But, you know, that might be true for the property also to the west. But then the property to the north, which is not clearly delineated here, but there is a lot line here. And so this property, which is also zoned M-N, M-C is probably not appropriate at all there given its lack of, you know, vehicular traffic and frontage on a major roadway, Right? So -- however, though, if the other two lots are zoned M-C, it becomes more kind of expected that the other lot would also be M-C. And so then there's just this kind of ripple effect or domino effect of, you know, where does it end and, you know, how did it get started is kind of where we're at now. It's, like, do we really want to jump that barrier of North Cedar Lake Drive and then start that kind of chain reaction because it will take place on down the road potentially along that -- along the rest of the corridor as you move west.

MS. CARROLL: And I'm seeing a lot of M-N at the very far west along that corridor. I am seeing some M-C and some perhaps C-P around there. I'm wondering if the City View map is accurate here when I look at the zoning layers. It looks like there's a strange split zoning scenario.

MR. PALMER: Okay. There's --

MS. CARROLL: Does it default to the M-N on that parcel directly to the east or is that split zoned? Because the map that I'm looking at didn't match.

MR. PALMER: I'm not sure.

MS. CARROLL: I looked to see the broader context and –

MR. PALMER: I will tell you that everything west of here --

MS. CARROLL: -- and this map isn't --

MR. PALMER: -- west of the subject site was owned by the applicant.

MS. CARROLL: Uh-huh.

MR. PALMER: That -- we did a multi-parcel kind of rezoning on that. Like I said, it was at least a year ago, maybe two. And a lot of that, at that time, especially right here at Southampton and Executive, there was a request for M-C there, as well. And that was the one where there were a lot of concerns about having the potential gas station next to the high school and the traffic, and kind of the products they were selling, things of that nature.

MS. CARROLL: Right.

MR. PALMER: And in that instance, a lot of those -- most of those M-C requests were downgraded to M-N. And so if you look at the zoning map, you'll see that much of this parcel that's undeveloped to the west here around the lake is zoned M-C now, except for the clubhouse for the residential, and that's an R-MF lot.

MS. CARROLL: So the requests along South --

MR. PALMER: It's M-N. I'm sorry.

MS. CARROLL: So the requests along Southampton -- yeah. I am seeing M-N there -- generally were requested for M-C and ended up going M-N instead?

MR. PALMER: Right.

MS. CARROLL: Okay. And ultimately as we discussed, you talked about, I guess, a mechanism that might be concerning for a zoning creep, as you say -- just for the benefit of the hearing, ultimately, if another parcel wanted to rezone, it would have to come back through this process, through this Board, have a hearing with the same questions?

MR. ZENNER: I think what we -- when we refer to zoning creep and it is the -- once you begin a process, it becomes very difficult because the argument could be presented that Executive Drive then acts as the boundary for the expansion of M-C. So the parcels of the west to the subject site becomes M-C. Well, Executive Drive then is the arguing point that that's the barrier. And then the parcel to the north of that which fronts on Executive is suggested to be M-C or sought to be rezoned M-C, and there becomes less and less ability, typically, to defend not zoning to that at not maybe this level, but at the Council level, because what's a little bit of extra M-C. And so when you look at what the intensity is within the block to the south of North Cedar, that is an established commercial block. It has been an established M-C commercial block for years, for more than a decade. And this particular northern area was not envisioned that way. Most of the planned districts that surround the northern edge of the lake, which is where the restaurant is, the eye wear, there's some multi-family up there. Those were all planned zoned districts



that were sought to be rezoned, if I am not incorrect, with the original request to M-C. And we said no, the land uses that are there are capable to be accommodated in M-N, and hence the reason why there was that back and forth during those original -- the original rezoning action, the more comprehensive rezonings out here. This was a parcel, interestingly enough, that was just not addressed when we did the comprehensive rezoning because, probably at that point, it wasn't seen as an obstacle or an impediment maybe to a user. And at this point now, we have that.

MS. CARROLL: And this parcel that's directly to the east from the parcel that we're looking at, that is residential. That's zoned -- split zoned by the City View map, see M-C and M-N.

MR. ZENNER: The map that was here, I'd have to see the actual City View map.

MS. CARROLL: Okay. Okay.

MR. ZENNER: The map that is here came directly out of our GIS. We're having horrible issues with our City View at this point, accuracy issues. This is the map that is coming directly from our data -- our data sources that we are using. And this, the -- the pink, the pale red, is M-N zoning. The hatched area that's the gray is PD. That is the actual designation. Now what you see on the aerial here, that is the current aerial background with the existing zoning.

MS. CARROLL: And it is residential in the M-N; right?

MR. ZENNER: Yes. It -- yes. It originally began, so in the Villa Madera plan, it was originally R-2, PUD and CP, and then that was converted to the M-N. So it is possible. M-N does allow mixed use residential uses, so you can have the office with the residential, which is that M-N designation is consistent with what would be found on the ground today.

MR. PALMER: And just for clarity sake, the -- there are residential units facing west with driveways onto Santana Circle. And then there are parking lots and office, generally some commercial, facing to the east out on the outer road frontage. So it is a true mixed-use development and, yeah, it is zoned M-N, so --

MS. CARROLL: Okay. Yeah. I have to confess that when we were discussing the older rezoning applications north of that towards Rock Bridge High School, I viewed Corporate Plaza Drive as, I guess, kind of the barrier, and proximity to the high school as being a major consideration. And as we move south, I see more -- more commercial zoning.

MS. GEUEA JONES: If no one else has a question, I just have a quick one. Are they prohibited from having an entrance on North Cedar Lake Drive?

MR. PALMER: No. That road is not classified on the CATSO map, so --

MS. GEUEA JONES: Okay.

MR. PALMER: -- it wouldn't be restricted.

MS. GEUEA JONES: Okay. So they don't necessarily and may not desire to have their entrances on Santana Circle?

MR. PALMER: No. And that is actually one of the considerations is, you know, looking at the

road classification, it acts as kind of a collector at least for everything within this Corporate Lake kind of block of development, but it's -- it doesn't rise to that level on a broader scale. It really only serves this area, even though it does serve a fairly large area.

MS. GEUEA JONES: Thank you. Commissioner Carroll, go ahead.

MS. CARROLL: And you didn't hear back from any -- I know it's in the staff report. You didn't hear back from any adjoining --

MR. PALMER: The -- there were only four postcards sent out. That's because the applicant owns the bulk of the property adjacent, and there was one neighborhood association, I believe. And the rest are people, I believe, who are owners of those condo units.

MS. CARROLL: The neighborhood association is farther back.

MR. PALMER: Yeah.

MR. ZENNER: North Cedar Lake, I believe.

MR. PALMER: North Cedar Lake --

MS. CARROLL: Cedar Lake neighborhood, yeah. Okay. Thanks.

MS. GEUEA JONES: Seeing no other questions for staff, we will open the public hearing.

#### **PUBLIC HEARING OPENED**

MS. GEUEA JONES: Please come forward, state your name, all the good stuff.

MR. GEBHARDT: Thank you, Sharon. This is Jay Gebhardt. I'm a civil engineer and a land surveyor with A Civil Group. And I'm working tonight for Mr. Lewis who purchased this property, all 80 acres of Corporate Lake, back in about 1987. He is the owner of all the vacant properties except that piece where -- it would be the north or southeast corner of Executive and Southampton. And we have -- it's interesting. The staff has kind of made a lot of my arguments for me why this should be M-C. And I ask you to, you know, take some faith in your -- in your Uniform Development Code. The -- the uses that are scary or -- or causing concern for this, we would have to do a traffic impact study. And I can tell you, we would never get a C-store here. The closest we're going to get to a C-store would be the corner of Corporate Lake and the outer road, and I still don't think we could get the traffic thing, because MoDOT is limiting that entrance to a right-in and right-out only. It's just -- and as Mike said, the traffic down here is -- is questionable as it is. So that is going to be a self-limiting issue with this. We also asked, you know, an owner for the last 30 years who has been slowly developing this in his own vision, and he just hasn't allowed those types of uses to occur. The M-C property across the street, you know -- is why aren't we using that? Authority Gymnastics is going to build their facility -- a new facility, so a lot of that M-C is going to be used for that. We really don't want to go to M-N because we want to preserve the rights for our drive-through facilities. After Covid, it's just amazing. Everyone wants a drive-through. And so having to go back through the conditional use process is -- is cumbersome, and it adds -- a similar situation is doing a PD plan, so we might as well keep the PD if we're going to lose the drive-throughs. And, you know, the -- the one -- you know, there's a lot of uses put out here like a car wash and stuff, but,

you know, veterinary hospital, a bakery, there's -- there are some uses in the M-C that would fit in with this with a drive-through, and I think it would be good. And so I'm -- I'm not going to be able to consent to going to M-N tonight, and we could just live with what we have if that's what -- (inaudible). The reason this wasn't included in the --

MR. ZENNER: Pull the mike back towards you and speak into it.

MR. GEBHARDT: Oh, I'm sorry. The reason we didn't include this in the first time, it was actually a mistake on my part. Gary and Brenda Lewis are the owners of all the other parcels, and this was added under an LLC called Villa Madera, and I didn't think that was Gary, and so I didn't include it. Otherwise, we would have included it in that big rezoning we did about 18 months ago. So -- and that's another point is this zoning creep issue is we just rezoned this from PD to M-N. We don't -- Gary doesn't have any intention of -- of -- you know, asking for M-C on those M-N parcels. But that's -- that's our logic on this. You know, a lot of the M-C that we have is being used up. We like to make sure that we could have those type of uses. And the really high intense vehicle ones are going to be self-limiting by the UDC's requirement for a traffic impact study. So that's what I -- but I'd be glad to answer questions or --

MS. GEUEA JONES: Thanks, Jay. Any questions? Commissioner Burns?

MS. BURNS: So just to clarify, Mr. Gebhardt, you would prefer to stay with the PD versus -- you won't consent to going to the M-N. So if we decline your request, you're happy with the PD right now?

MR. GEBHARDT: We're not happy with it, but we prefer, and we don't see the need for a PD, but we don't want to give up the entitlements that we have now.

MS. BURNS: Thank you.

MS. GEUEA JONES: Any other questions for this speaker? Okay. Thank you.

MR. GEBHARDT: Thank you.

MS. GEUEA JONES: Okay. Is there anyone else from the public who wants to speak on this case? Anyone else on the case out at Corporate Lake? Seeing none.

#### **PUBLIC HEARING CLOSED**

MS. GEUEA JONES: Commissioner discussion? Who wants to start? Commissioner Burns?

MS. BURNS: Yeah. I'll start. I mean, I think I understand the desire to increase opportunities by moving to the M-C, and staff had offered M-N as an alternative, and that's not acceptable, so I guess if we're talking about kind of meeting in the middle, I would say we stay with the PD and see where we go, because I see moving to the M-C is opening the door.

MS. GEUEA JONES: Commissioner MacMann?

MR. MACMANN: Just real quick, a philosophical point for in the future. This is kind of counter to where I normally sit. But I think this frontage on the outer road should probably be M-C anyway, but it's blocked by that M-N, and the traffic is horrible down -- it's -- it's really bad. It's just the flow is all wrong. I respect Mr. Gebhardt and -- and Commissioner Stanton's view, and I think I'll go along with Commissioner Burns here. I just -- we need to think about this area doesn't have zoning flow or traffic flow. Anything

we can do to avoid that in the future, I guess, is what I'm -- that's what I'm saying.

MS. GEUEA JONES: Any other comments? Commissioner Placier?

MS. PLACIER: Yeah. I liked the M-N possibility because of both the idea of zoning creep and the -- the nearness to some residential on Santana. The -- I am very leery of this idea that go ahead -- because we've had another case like this recently. Go ahead and rezone, and it'll be self-limiting, or we aren't going to do a certain thing that would be allowed there. And I'm very, very cautious about that, and would rather go with M-N as being more consistent with the surrounding part of that particular area. But if M-N is not agreeable, I guess we have to accept that and go with the status quo.

MS. GEUEA JONES: Commissioner Loe?

MS. LOE: Along with the zoning around the site generally being zoned lower in the M-N, the uses on the site have been developed at the lower end of the scale, if the zoning maps on City View can be believed. So we're seeing residential in the office zones and the M-N zones. So wanting to go to a higher zone seems to be contradictory to how this whole area has been developed. And I concur with Commissioner Burns that it seems speculative to up-zone that piece at this point.

MS. GEUEA JONES: Anyone else? I'll go. I hate to be the contrarian, but I guess that's what I am tonight. I love the idea of getting rid of a PD plan that's not being used. I truly, truly do. And I think that between the traffic study requirement that could trigger improvement of the roadway for everyone around, which would be nice, between the fact that if -- if they did consent to M-N and we did that, they'd just have to spend the money to come back to us again to request a CUP for the drive-through, and the fact that a business owner is going to put something in that spot that is going to be used -- that is going to be a similar use because they are looking to use the same consumer group. Right? So, like, we're not talking about complete greenfield, not in a real way. There's tons of business that is well established that is already out there. I feel fairly comfortable giving them the M-C given all of the other things around it and given the fact that any study, if they do want to put in a drive-through and they do get the larger traffic study, we could be looking at an improvement that helps every other business around them, as well. So, I mean, I -- I'm not trying to -- to -- I'm just trying to tell you what my mind is thinking, which is I think that the way I view zoning, I would much rather have a straight zoning than have this PD sitting out there again for who knows how long until they come back. Or, you know, then they -- they go to City Council and City Council gives them the M-C anyway, I guess would be the other option. But it's been sitting there undeveloped zoned for decades. If giving them straight zoning gets the thing built out, I'm happy with that. Commissioner MacMann and then Commissioner Carroll.

MR. MACMANN: Just real quick. I want to second what you said why I went against my normal, most logical take on this is before these folks owned it, I looked at this property and it was empty. It has been empty, empty, empty. I'm with you, Sharon. If it kick-starts this 80 acres that's been sitting there, I think it will be okay. Traffic is an issue. Anybody who does anything of size or flow here is going to have to pay to improve the roads or help pay to improve the roads because you just can't -- it doesn't flow. And

the designation of Corporate Lake Drive, North Cedar Lake needs to -- that -- that -- CATSO needs to switch that. There's an issue down there because they cut that road off, which I think was a mistake for the whole area. But I -- I'm leaning this way just to move it -- move the whole thing along, honestly.

MS. GEUEA JONES: Commissioner Carroll?

MS. CARROLL: Yeah. I struggled with this case when I was reviewing it because I do see quite a bit of commercial that's adjacent to this. We have M-N adjacent; we have an M-N used as residential. Adjacent or mixed use. It's -- I was leaning towards granting M-C as I reviewed this because the surrounding M-C, because the nodal development, because of the location on the corridor, and because I do support the -- I do have faith in our Code and the requirement of the traffic study. I do think that a lot of the -- the more intense uses should be hard to have with a traffic study, although I'm not sure how comfortable I am with a drive-through at that location. We need improvements to that street. The traffic is horrible. I don't know that improvements to that street can help the overall traffic flow with a drive-through present. I do see the contextual use as you move towards North Cedar Lake to be more similar to commercial.

MS. GEUEA JONES: Commissioner Stanton?

MR. STANTON: Oh. Mr. Gebhardt can sell water to a fish. The arguments are sound. Logic is sound. I'm just on a not trusting anybody further than I can throw them mode right now with the current situation and developments going on. Arguments are great, but there's a lot of what ifs, could, won't, have no intentions of, don't plan to, than it has legally binding. And the way I looked at this neighborhood or this area is that, as Ms. Loe said, it's been developed on the lower end of the -- of the zoning scale. And I don't know the argument why M-N wouldn't work with some of the things that Mr. Gebhardt wants to do. I don't know. He made the position that M-N is not an option, so I'm not going to go down that road. The win-win to me would be an M-N. It would keep a neighborhood feel. That is kind of where I'm at. I'm looking at everything that's developed there. Yeah. Maybe Corporate Lake didn't work like proposed. I get it. But M-N would be the win-win for me. It's not an option, but I'm sure not comfortable with the would of, could of, possibilities [sic], hope not to kind of thing, because once we get that door open, it's not legally binding anything that came out of his mouth. And I'm not -- and Mr. Gebhardt can sell water to a fish. I'm not doubting his integrity or his logic at all. But better that it's legally binding.

MS. GEUEA JONES: Commissioner Placier?

MS. PLACIER: I agree with Commissioner Stanton. I do not want to give -- to assign a zoning that by right allows so many uses that could be detrimental to the area, and -- and have no recourse. I could be driving down there and think, oh, that's going in. You know, I -- I just think there is no self-limitation. There is none. It's wide open to any use we've listed. So why would we think any other statement would have any binding power?

MS. GEUEA JONES: Well, for me, it's not -- I mean, look, this is not a slam dunk case either way in my mind. But for me, it's not like Mr. Gebhardt or the owner say they intend to do, it's what our Code

tells them they are allowed to do. And while, yes, M-C generally permits all kinds of things, the use specific standards do not. And so, to me, those use specific standards that we have worked very hard on and are continually refining, are there for a purpose. Although it's true that they will be able to do more with M-C than they will with M-N, I don't know -- like, for example, I don't see them ever being able to meet the use specific standards for a hotel. Right? Like, that's what I'm thinking of, is what would the Code allow them to do between building, traffic, and use specific standards, regardless of what they may want to do.

MS. PLACIER: Would you give me some examples of what would be possible?

MS. GEUEA JONES: I mean, most retail would definitely be possible, especially lower use retail. Personal services would be. I think, you know, the -- the -- anything that is, frankly, also allowed in M-N would fit on there under the use specific standards for M-C. And the stuff that's now allowed in M-N, I think they're going to have a very hard time meeting. Commissioner MacMann?

MR. MACMANN: In looking at the property, and I'm sure the Lewis' are -- perhaps they've looked at this. If I have this piece of property and I am a block away from the high school, and this is to be, like, make this real, not just, you know -- a green store or a drive-through restaurant, that's what I'd want to put there if I just wanted to make a buck off this. It's really problematic for a drive-through. It's not problematic for a C-store, except everyone hates C-stores, you know. And you get the neighbors out. You know, putting a McDonald's there, and no one is going to say anything, but, you know, four gas pumps in there, and we'll have 200 people in line. That's what this -- that's kind of what this area needs. I agree with you. I -- they'd have a hard time with the standards getting a hotel in there. A drive-through, maybe. Because the roads are messed up, it's a hard time -- but that's either -- that's an either/or, as Mr. Stanton said. A convenience store, if they want to fix the road, you know, widen it mostly and help that flow. This is a CATSO area, and that mostly because of what it developed. But it's -- this property sat here for 40 years as the property around it developed. It sat. So I'm done. I'm ready to -- I'm ready to vote whenever you guys are.

MS. GEUEA JONES: Fair enough. Seeing no other comments, Commissioner MacMann, would you do us the favor of a motion?

MR. MACMANN: Thank you, Madam Chair. In the matter of Case 125-2023, (and because I must do this in the affirmative), I move to approve the rezoning from PD to MC.

MR. STANTON: Second.

MS. BURNS: Can I question? We have a recommendation for denial. So --

MS. GEUEA JONES: But we have to state in the affirmative.

MR. MACMANN: I have to make it -- I have to state the motion in the positive, do I not, Legal?

MS. GEUEA JONES: You do.

MS. THOMPSON: We typically state them in the affirmative.

MS. BURNS: Okay. Thank you.

MS. THOMPSON: Yeah.

MR. MACMANN: Are we still good there, Mr. Stanton?

MR. STANTON: Yes.

MS. GEUEA JONES: Moved by Commissioner MacMann, seconded by Commissioner Stanton. Commissioner Carroll -- or, I'm sorry. Any discussion on the motion? Commissioner Carroll, may we have a roll call.

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

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

MS. GEUEA JONES: The motion fails.

MS. CARROLL: It -- oh, my goodness. Yes, it failed.

MS. GEUEA JONES: Thank you, Commissioner Carroll. By our vote of one yes and seven no, we have recommended denial of the rezoning in Case Number 125-2023. Oh, what do we do next? Oh. That recommendation will be forwarded to City Council.

## **VII. PUBLIC COMMENTS**

MS. GEUEA JONES: Any public comments, generally? Commissioner -- or Mr. Gebhardt? I am tired.

MR. GEBHARDT: Thank you for allowing me to talk. Not -- this isn't specific to the case that you just recommended denial on. But I do want to give you a perspective that I -- I have after 35 years of doing this. When we were using planned developments, I had a lot of tools when I met with neighbors, and I could address use -- you know, eliminate uses that were concerns. I could -- I had a lot of tools to address the same concerns that you guys are voicing tonight, and, you know, when we came to the -- adopted the UDC. I was assured that, you know, we're getting rid of the planned districts and the use of that because of the cumbersome way they have to be managed in order -- because we were having all the use specific standards, the neighborhood protections, and all the other parts of the UDC. So it's -- it's really hard, you know, and I'm always asked, well, what's the intended use. And I always kind of -- I almost kind of laugh to myself about that because name a commercial building that is what it was when it was built? I mean, there's a lot of reuse and redundance, so, I mean, I could come in tonight and said this is going to be a veterinary clinic. And, you know, and everyone goes, oh, well, that's okay, you know, that's not a problem. But the problem is, and this is exactly what Sharon said, is these uses are what's allowed. And you guys have to build these use-specific standards to give you all selves the confidence that when someone comes in and asks for a zoning category, that there are other limitations than these are the allowed uses, but, oh, yeah, we have all these use specific standards that say if you do this, then you have to do this and you have to do this. So it's -- you know, and I kind of miss the planned districts a little bit because I'm the one talking to neighborhood associations, and I'm trying to explain to them. And I have one coming before you next meeting for Copperstone, and the neighbors just flat out insisted that it

stay planned district. They would not even entertain the idea that going to open zoning, because the whole concept of use specific standards and all that is just really hard to educate to people. And I've met with them four times, so, I mean, it's not like it's just one meeting with them. But point being is, you know, we will be coming back with straight zoning requests that don't have a specific use to them. And if everyone goes -- goes to the worst-case scenario of what could -- the awful things that could happen there, then we'll never be able to utilize the UDC in the way that it was envisioned. And so, you know, when I have a case like that, you know, and I come forward with a PD, then I'm -- I'm criticized, perhaps, of why are you using a PD because it's not appropriate. So I just wanted to point out that my perspective on that. You don't necessarily have to agree with it, but it's -- it is something to think about. You guys have adopted this Code, and I think you just have to have some faith in it. And if you see something that's broken in it, you need to fix it by adding more use specific standards and more detail to the use specific standards and that to allow it to function properly. That's all I have.

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

MS. PLACIER: Thank you.

MS. GEUEA JONES: Any other -- oh, I'm sorry. Commissioner Stanton.

MR. STANTON: Mr. Gebhardt, it breaks my heart because I -- I agree completely. Mr. Gebhardt does a great job in trying to accommodate our needs. He -- he does a lot of work to make these projects work, and we need to work to making his job a little easier. But it's not the Mr. Gebhardts that influence our decisions. I -- you do a great job, Mr. Gebhardt, but there's some that just play us. I mean, I just -- this is the bottom line. They -- they take -- they take the key words and marketing strategies and they say what they think we want to hear, and sometimes we're suckers and we fall into that trap. And that's why we get decisions like this. And, you know, yes, maybe we need to make this clearer, more clear cut, but it's the bad actors that are really -- they influence my -- I can speak for myself. They definitely influence my position. And I always rather be on the side of caution because in my neighborhood, I wish there was somebody that was trying to keep the zoning my neighborhood at a certain level of intensity or the buffers, you know. I live right down by the big old garage right here. And so, I'm trying to be that person for this neighborhood, and your arguments were sound. I just don't trust the system outside of the law -- outside of the rules to play ball like you do.

MS. GEUEA JONES: Anyone else? Commissioner MacMann?

MR. MACMANN: I mentioned this before, but to follow up on what Mr. Gebhardt and Mr. Stanton said. If we depend upon the Code and it's pretty much plug and play, i.e., greenfield, and this was greenfield for a long time, it works pretty well, but this is kind of an infill situation. We have the zoning that's changed north and south of that road, and the transportation did not. So it's not plug and play. And we're only, you know, what, a quarter mile from the school, if that. It's kind of messed up. It doesn't work very well. The entire region doesn't work for transportation or zoning. It's got an odd off flow to it. I'll stop right there, but that's something that we need to think about going forward. Thanks.



MS. GEUEA JONES: Anyone else before I move on? Commissioner Loe?

MS. LOE: I'm just thinking in conjunction with Mr. Gebhardt's comments, just as we're looking at housing and the zoning districts. Mr. Gebhardt, we -- we do have to consider everything that's in the next district. You know, you said you go straight to the worst-case scenario. I'm not sure I would characterize it as the worst-case scenario, but we've intentionally stepped the districts up and decisions were made about, you know, what makes it into that next district. If -- if there isn't enough nuance, if we're finding that we need a middle ground, I'm -- perhaps we need to look at that a bit more on the mixed-use commercial end as well, and another middle ground. That's just a thought. Thank you for your comments.

MS. GEUEA JONES: Anyone else, before we move on? Okay.

### **VIII. STAFF COMMENTS**

MS. GEUEA JONES: I believe the next step is our lovely staff.

MR. ZENNER: So it sounds like I have job security. Your next meeting will be on the 20th of April. Time is flying, as Ms. Loe said before we left work session. We're already almost through the fourth month of the year. It just seems like January. But we do have some cases that are coming up, so our upcoming cases are these five. We have the subdivision that we had tabled this evening off of Louisville. And then the case that Mr. Gebhardt referred to off of Vawter School. This is at the Copperstone. We are redoing the -- we are doing a planned district plan, and this is a planned district plan that will be very unfamiliar to most of you. It does not have any buildings on it. This is something that I have previously previewed for you that this is the direction that we were going to be starting to head in. We don't want fictitious development patterns proposed. We want to identify the ultimate impacts permissible on lots and then allow the planned -- plan approval process to determine the building footprint. This SOI is a revision of the existing SOI that went with the C-P zoning. It is being upgraded to address the current Code, and as Mr. Gebhardt pointed out, it includes a limitation of uses that were necessary in order to ensure the support generally of the surrounding property owners. It is a comprehensive list, very consistent, generally, with the uses that were -- the commercial uses that were permitted in the C-P zoning that was on this property, but it has been thinned to eliminate a lot of the superfluous uses that ultimately are not what the objective of the developer is. So with that being said, single-family, two-family development, it's not in there anymore because it was in the original C-P. That's not what this property will be developed as. It is proposed to be a commercial development of ten lots. And we've been working with Mr. Gebhardt. His staff have thinned that use list down to what is appropriate within this general vicinity, and what the client was willing to accept, and it has been further refined with the meetings that they have had with the neighborhood. So the plan will be different. The SOI is really the meat and the potatoes of the request. It is what can occur on the individual lots and in what proportions. So we hope that you'll see it and you'll understand why we're gravitating towards this. It does not reduce or diminish the impact of a planned zone. It still does require a plan approval individually for each of the lots. The next project we have is another permanent zoning request. We have had a number of these this

year. It's actually surprising to me that we are still seeing external growth on the City, and that's where we see these permanent requests. This is just north of Sorrell's Overpass on the north side of I-70. It is currently a County zoned M-L and R-M, and L being their light manufacturing and R-M being their multi-family zone. It is being sought to be rezoned comparably to the City, and that would be our I-G and our R-MF. Presently, the property is improved with a residence, and the Chapman Heating and Cooling commercial business. Both the residential and the industrial zoning that current zoning has and what we're proposing to accommodate both uses, and the purpose behind this is really for sanitary sewer. They would like to connect all of the existing improvements on the property to a public line, and then there is one vacant parcel that will be R-MF that would have the ability to connect when proposed for future development. And finally the last case is very similar to what Mr. Gebhardt was talking about this evening. This is taking a parcel that has sat PD for probably more than a decade. The Court, Woodland Spring Court, actually currently has two hotels developed on it. This particular site is behind an ATM machine that has frontage on Clark Lane, and it is being sought to be taken out of the PD designation and dropped into the M-C designation. And at this point, you're on an interstate, you're on a major arterial, Clark Lane. The M-C zoning designation in this point, when you look at all of the other conditions, size of the parcel, parking requirements, other use-specific standards that would apply, M-C zoning, hopefully, when you see the facts associated with this case, makes sense. So there are certain instances where land use context is important, as we discussed this evening. In others, the context defines what the appropriate zoning is, and there may have been a reaction at the time PD was applied, that it was -- it was for another purpose. And so with the discussion that we had during public comments, you know, part of our role as staff is to try to balance out those issues. We are favorable to get rid of planned district zoning, as Ms. Geuea Jones is, and others on this Commission, as often as we can, due to the labor intensive nature of it and the stifling effect it has. However, in instances where we do believe that there may be adverse impact, a planned zoning district may be appropriate to be retained or, as was recommended by Mr. Palmer in this particular request this evening for Cedar Lake, a different zoning classification that gets it out of PD, but keeps it consistent with that land use, is sometimes appropriate. It is always the applicant's prerogative to accept a down-zoning of the property. However, it is also always the prerogative of the Commission to not support the staff's recommendation. And I think that that goes to the purpose of why we have this public forum and why we exchange information the way we do, very similar to how our Board of Adjustment operates. You hear the facts from both parties, you have to render a decision. We are here as your technical advisor, and we hopefully can provide you that technical expertise when asked for, and that is our purpose. More than happy to try to create additional zoning districts, we have found that Mr. Elliott and Clarion and their endeavor when we redid our zoning Code in 2017, brevity is sometimes appropriate. We went from 26 to 13 zoning categories. However, as we are finding, brevity is sometimes problematic because as you abbreviate the total number of districts we had -- we used to have three commercial zoning districts -- you lump together sometimes uses that create an

intensity imbalance, and that is, I think, to what Ms. Loe was referring to tonight. We may need to go back and we may need to look at our particular uses somewhere in the middle. And is that where a new district may need to be created so we can have more gradation in the zoning spectrum and not create some of the problems. That, or, as Mr. Gebhardt pointed out, we refine our use specific standards. And that is something that we can continue to look at as we endeavor to go through the rest of this year with our other zoning changes that we're discussing. With that, that's all I have to offer. We look forward to seeing you on the 20th.

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

#### **IX. COMMISSIONER COMMENTS**

MS. GEUEA JONES: Any further Commissioner comments for the evening? Commissioner Loe?

MS. LOE: Mr. Zenner, just to follow up on that. It could be interesting to see if there was any common uses that the PD plans routinely pulled out as part of their SOIs, and are we incorporating that, or is there a zone that -- a district that accommodates that.

MR. ZENNER: Actually, one of those, I could just -- I know one off the -- we used to take farm machinery sales and repair came out of almost every planned zoning district that I have ever come across, and that is now in an industrial zoning district. So, yes. We have accomplished that to get it into the highest zoning district possible where you don't see that, but we've got some others. I mean, it's some interesting -- bars, night clubs were another consistent one that came out. So, I mean, there are common themes in particular requests, often generally driven by where the request was being proposed. So adjoining neighborhoods, you will see that a commercial development adjoining a neighborhood is going to have a much more narrowly defined list generally of what would have been C-1 uses, and then reaching into the C-3 category because C-P allowed any C-1, any C-3 use. You'll see some C-3 uses were pulled, but all others were left out. And that was the car wash, maybe the gas station or something else. And those were the types of uses that sometimes got added back in depending on the location. So over history, that's what we've seen. So if you look at M-C today, M-C would have included all of those uses. M-N, on the other hand, which we would see normally at the edge of a neighborhood, requires the gas station, allows you to do the gas station, but allows you to do that gas station with the conditional use, so we have better site plan control in substitute of an actual full-blown PD. And that's part of why where you see the variations now, and C-P or the current Code with CUPs, unlike prior to 2017, every CUP went through the Board of Adjustment. Don, in his analysis and his work with us on the Code, was able to express to us that when you look at particular land uses that are of a greater intensity, it is truly a land use change, and therefore, should not go through your Board of Adjustment, a quasi-judicial body, but should come back through the Planning and Zoning Commission for that site plan consideration and that context consideration, and then be approved by City Council. That is why our CUP process exists the way it does now. And it allows for greater checks and balances. But we've got -- we've got work we can do. We

always will, and folks like Mr. Gebhardt and others within our design community can always help to point out where we've got these disconnects and how we can do our job better, and we do welcome that type of comment and constructive criticism.

MS. LOE: Thank you.

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

MR. MACMANN: Farm repair in R-1 only.

**X. ADJOURNMENT**

MR. MACMANN: And I move to adjourn.

MS. LOE: Second.

MS. GEUEA JONES: Motion to adjourn made by Commissioner MacMann, seconded by Commissioner Loe. Any objection? We are adjourned.

(The meeting adjourned at 8:32 p.m.)

(Off the record.)