

EXCERPTS
PLANNING AND ZONING COMMISSION MEETING
COLUMBIA CITY HALL COUNCIL CHAMBER
701 EAST BROADWAY, COLUMBIA, MO
December 8, 2022

Case # 280-2022

A request by A Civil Group (agent), on behalf of Cinnamon Hill, LLC (owner), for approval of a one-lot PD Plan on PD (Planned Development) zoned property for a four-story hotel, located on Lot 108A of Crosscreek Center Plat 1-A. The approximately 2.0-acre property is located at the northeast intersection of Stadium Boulevard and Highway 63, and includes the address 1407 Cinnamon Hill Lane. (This case was tabled at the October 20, 2022 Commission meeting.)

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

Staff report was given by Mr. Clint Smith of the Planning and Development Department. Staff recommends approval of the major amendment to the C-P Plan for Lot 108A Crosscreek Center Plat 1-A PD Plan.

MS. GEUEA JONES: Before we direct questions to staff, if there is any of my fellow Commissioners who have had outside discussions regarding this case, we would ask you now to disclose it so that we can all work from the same information. Seeing none. Are there any questions for staff? Mr. MacMann?

MR. MACMANN: Just a legal -- Ms. Thompson, can you enlighten me on what's not supposed to influence my decision?

MS. THOMPSON: I can -- excuse me -- as Mr. Smith pointed out there is a lawsuit that has been filed in this case. Mr. Hollis may speak more to this.

MR. MACMANN: I noted his presence.

MS. THOMPSON: The lawsuit is seeking judicial relief to restrain Cinnamon Hill from pursuing approval of a PD amendment to allow for the construction of a hotel. The merits -- it is my recommendation to you -- the merits of the plaintiff's argument in that lawsuit are not for this body to decide. The judicial process will determine that. You all are here to make a land use decision, and that lawsuit shouldn't bear on that decision and shouldn't impact your decision making.

MR. MACMANN: Madam Chair, while I have legal here, and I've said this before, and you could -- could you please pass this back up the line? I'm loath to rule on these things. I appreciate that everyone's supposed to be objective. My concern is as follows, and I will continue to state this as long as this happens: Our opinion does have merit and bearing with other judicial bodies, quasi or not. I don't -- the merits, regardless of this case -- my concern is as follows: Well, the City said it was okay and people

taking that into consideration. I have said my piece, Madam Chair. Thank you very much.

MS. GEUEA JONES: Are there any other questions for staff? Seeing none. I will open the floor to public comments.

PUBLIC HEARING OPENED

MS. GEUEA JONES: Please come forward, state your name and address for the record. Speak clearly into the microphone and six minutes for a group, and three minutes for an individual. Oh, homework.

MR. GEBHARDT: Good evening. My name is Jay Gebhardt, I'm a civil engineer and land surveyor with A Civil Group, and I'm here representing Genesis, who is the contract purchaser of this lot to build an Extended Stay hotel -- four story, hundred and twenty-two bedrooms. I really don't have a lot of things to address here. I think the staff's making a recommendation of approval is appropriate. Mr. Hollis is here if you have specific questions about this, what I consider a frivolous lawsuit, but that is more his purview than mine. But if you have questions about anything on the plan or about the hotel, I am here with Ranita, who is with Genesis, and she can answer questions specifically about who they are and what they do, and why we think this is good thing for Columbia.

MS. GEUEA JONES: Thank you. Are there any questions for this speaker? Mr. MacMann?

MR. MACMANN: Mr. Gebhardt, my objections has no bearing on the merit of your case, which I think is good. It is a legal thing. I just wanted to let you guys know that.

MS. GEUEA JONES: Any other questions for this speaker? Seeing none. Is there anyone else who would like to speak on this case number? You know the drill.

MR. HOLLIS: Robert Hollis, 1103 East Broadway. I didn't plan to talk, thank you, Mr. Macan -- MacMann. Sorry. While I disagree with you pretty strongly, I can't imagine a court --

MR. MACMANN: Mr. Hollis, we've disagreed before.

MR. HOLLIS: We certainly have. I -- so this is a -- public restrictions are through ordinances and the like. There are private restrictions on land use that are not through ordinances and the like. And so the case that has been filed has nothing to do with ordinances and land uses under ordinances. It is an allegation under a very farfetched private restriction. I don't want to go -- to get into it too far, but just briefly, there was a contract in 2011 between two parties who are not here. It was 2011. In the contract one of the parties promised that it would not sell any of the lot in the development to another person who was going to use it for hotel purposes in 2011. In -- so one of those parties was the people who are filing the lawsuit now. In 2012 when the statement of intent was revised, those very same parties, all property owners within the development, signed an amendment to the private restrictions, but they were also on board with the amendment to public restrictions, signed a document. It is recorded, by the way. The previous document I mentioned was never recorded. It is recorded that says hotels are permitted on this lot. Everybody agreed, including the folks who have filed the lawsuit saying you can't have a hotel on that lot. Again, a recorded document. And again, not to get too deep into this, imagine if in the house where you live, if you owned it, that three property owners, or four property owners prior to you, when they sold it

said in the contract, and never said it anywhere else, or recorded it, or told anyone else, you can't have pets. Nobody can have pets. You can't sell this property to anybody who is going to have pets. Well, of course, it sells again and then it sells again and now it's about to sell again, and you're selling it to someone who goes, I've got dogs. The person who was a party to the contract three contracts ago sues you and says you can't sell it to anyone who has pets, because I had a deal with somebody else. That's what's happening. It's that frivolous, as Jay calls it. Anyway, I didn't intend to get into all that, but the point I really want to make is there's the public side of restrictions through laws, ordinances, that's what's at play here. Then there's the private side. The law suit is completely and totally on the private side. So I'd be happy to answer any questions.

MS. GEUEA JONES: Any questions for this speaker? I have one. So to clarify, there is no current injunction, stay or any other court order that would tell you you can't be here tonight basically?

MR. HOLLIS: And they made that request. They filed the lawsuit, requested a temporary restraining order and emergency hearing, and the judge -- typically you would get a few days -- the judge dismissed it outright.

MS. GEUEA JONES: Okay. Thank you very much for being here. Any other public comment on this case? Seeing none.

PUBLIC HEARING CLOSED

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

MR. STANTON: I understand my fellow Commissioner's concern due to the fact that it's a legal situation, but as the speaker clearly expressed, that was the other side of the coin. Even if we allowed this to happen on our side of the coin, if that side of the coin wins its case, then this dies. So I don't feel any where about making a judgment on this as a land use issue.

MS. GEUEA JONES: Thank you. Any other Commissioner comments? I would second that. If there was anything restraining us either, our very competent legal counsel, or the judge in the case would've let us know that we're not being appropriate in our actions. Anyone want to make a motion on the case, if we're done with comment?

MS. BURNS: I'll make a motion.

MS. GEUEA JONES: Commissioner Burns?

MS. BURNS: Yes. In the matter of case number 280-2022, approval of the major amendment to the PD Plan for Lot 108A Crosscreek Center, I move to approve.

MR. STANTON: Second.

MS. GEUEA JONES: Moved by Commissioner Burns, seconded by Commissioner Stanton. Commissioner Carroll, may we please have a roll call.

Roll Call Vote (Voting "yes" is to recommend approval.) Voting Yes: Ms. Geuea Jones, Ms. Placier, Ms. Loe, Mr. Stanton, Ms. Burns, Mr. MacMann, Ms. Carroll. Motion carries 7-0.

MS. CARROLL: We have seven votes to approve, the motion carries.

MS. GEUEA JONES: The recommendation --

MR. MACMANN: Madam Chair?

MS. GEUEA JONES: Yes, Commissioner MacMann?

MR. MACMANN: Just a quick whatever. I hope that this remains frivolous. It seems frivolous; Just I needed to make that point. A couple of other cases we've had, it has been not frivolous. Thank you.

MS. GEUEA JONES: Recommendation will be forwarded to City Council.