



**Columbia Planning & Zoning Commission
Meeting Recap**

Council Chambers, Columbia City Hall
7:00 PM Thursday, January 18, 2018

CALL TO ORDER (Members present: Loe, Burns, Harder, MacMann, Strodtman, Rushing, Stanton, Russell, Toohey.)
(Members absent: None.)

APPROVAL OF AGENDA (No amendments to agenda.)

APPROVAL OF MINUTES ([Minutes from December 21, 2017](#) approved as submitted.)

SUBDIVISIONS

Case # 18-22

A request by Brush and Associate (agent) on behalf of Trevor Lally (owner) for approval of a one-lot subdivision of M-N (Mixed Use- Neighborhood) zoned property, to be known as "CGS Subdivision Plat 2." The .78-acre subject site is located at 4006 W. Broadway.

(Action: Staff presented an overview of the project. The applicant is seeking approval of a final minor plat for one lot. The existing .78-acre lot is shown as Tract 2 (two) on a survey recorded on August 24, 1982 and is presently improved with a single building and asphalt parking lot. The property is zoned M-N, which allows the present use of a daycare facility.

Subdivision will not change the property's existing dimensional configuration or access. The property is accessed via a private drive and is addressed 4006 Broadway. The private drive provides access to a city-owned utility building on property directly north of the subject site (Deep Well No. 9; out of service), Jimmy John's Gourmet Sandwiches (4008 W. Broadway), a multifamily building (4010 W. Broadway) and the Bright Star Learning Center (4006 W. Broadway). Public works staff is exploring wayfinding signage to direct motorists traveling from W. Broadway. Given that the property has never been formally platted, the Planning and Zoning Commission is permitted to consider the creation of tier lots.

Use of a stem, or tier lot, must be the only feasible means of access due to extreme topographic conditions. Staff believes that the proposed stem is not necessitated due to extremely steep slopes; however, the parcel is presently accessed off the existing private drive which creates the stem component of the stem lot, and the private drive is the only practicable access to the land-locked property. The westward then southward approach of the private drive accommodates the drainage ditch directly south of West Broadway.

The proposed plat will confer legal lot status upon the property to allow additional redevelopment on the site in conformance with the M-N District. No additional right-of-way upgrades were required as a condition of the subdivision, and all necessary utility easement dedications are provided on the plat. The proposal meets all applicable subdivision standards under the Unified Development Code. The plat is supported by staff for approval.

MacMann asked if the main access road that the property would use was private or public? Staff indicated that it is under private ownership and that the stem lot is owned by the applicant. Loe asked if the applicant has an access easement across the private road? Staff indicated that the applicant has access to the private stem. As for the main private access road, several properties utilize it, but the staff is not aware of what that private agreement is. The decision tonight is to create a legal lot that would allow for a building permit. The request won't change anything for any other surrounding property owners and the question of access to the private road would be between the various property owners.

Public comment was opened.

An engineer appeared on behalf of the applicant to answer questions and indicated that he did not know who owned the private drive, but that it was located in an old right-of-way, so it may technically be available for public access. No further questions were forthcoming.

The motion to approve passed unanimously on a 9-0 vote.

PUBLIC HEARINGS

Case # 18-14

A request by A Civil Group (agent), on behalf of Paris Road Plaza, LLC (owners), to rezone two properties containing a total of 6.3-acres from PD (Planned District) to IG (Industrial District). The subject parcels are located on the east side of Paris Road, approximately 1,200 feet north of Browns Station Road, to the north and south of the Orscheln's Farm and Home addressed as 3300 Paris Road.

(This item was tabled at the December 21, 2017 meeting)

(Action: Staff presented a report on the request. The applicant is seeking to rezone their two properties on the east side of Paris Road, from PD (Planned District) to IG (Industrial District). The applicant wishes to remove the planned district requirements from the properties in order to better address market demands and to accommodate artisan industry and mechanical and construction contractor office uses. Columbia Imagined identifies the property as lying within the Commercial District. The Commercial District is intended for a variety of citywide and regional retail uses as well as offices, businesses, personal services, and high-density multi-family dwellings as supporting uses within the district. The Commercial District will typically depend upon automobile traffic, as the district serves the region beyond its immediate community. Generally, the light industrial uses allowed by the IG district would be considered inconsistent with Comprehensive Plan's designation of this property.

Uses adjacent to the subject site include a commercial property between to the two subject lots (Orscheln's), a small tract to the north zoned A (Agriculture) and a number of R-1 (One-Family Dwelling) lots to the east, along Hill Haven Lane. To the south, IG zoned (Industrial) property exists along the Paris Road corridor, and R-2 zoning (Two-family Dwelling) lies to the southeast along Alpine Drive. Industrial properties adjacent to residential districts present a number of concerns and obstacles. The UDC provides a set of Neighborhood Protection Standards, in Section 29-4.7, which are designed to limit the

negative impacts of such land use conflicts. Many of these same standards are included on the existing PD plan for the subject property.

The use of the PD district allows for innovation and flexibility in design to encourage creative mixes of complementary uses and to promote environmentally sound and efficient use of land. This request is for a limited number of light industrial uses that can be accommodated in the existing planned district, upon approval by the Commission of an amended statement of intent.

The rezoning to IG would permit a number of odious uses which were never intended or permitted by the existing planned district. The PD district, and the associated plan, which was originally approved by Council in 2007, has afforded neighboring property owners a specific indication as to what uses would be allowed on the subject property, and their arrangement on the site. The existing PD plan shows a strip of retail uses on the site. While the plan has undergone a number of revisions and redesigns, the overall intent and proposed commercial uses remained unchanged.

Given the contextual uses and the potential impacts on the adjacent residential development that could be generated by potential IG uses, **staff does not support** the requested rezoning. The comprehensive plan designates this particular property as a part of the Commercial District, due to its adjacency to residentially zoned and utilized land. Furthermore, the applicant has indicated a rather narrow market interest in uses that can be accommodated within the existing planned development, with the appropriate PD plan and permitted use amendments.

MacMann asked about the input received on this project at the Public Information Meeting. Staff indicated that two people attended and that potential detrimental impacts from an industrial zoning were mentioned.

Loe asked about the exhibits that showed some of the old A-Frame apartments and noted that some of those A-Frames are in an industrial zoned district while others are located in R-2. Staff confirmed that and Loe indicated that the A frames are non-compliant, multi-family uses located on R-2 lots. She indicated that some other cases they have dealt with indicated that smaller lot sizes, which these are, will inhibit some more intensive uses. Staff indicated that in total the parcels were about 6 acres. The smallest lot is about 2 acres and the other is about 4.5 acres. What odious uses would be permitted? Staff indicated that under the Planned designation the worst use was a dying operation and the rest was commercial in nature including laundries, bars, etc. the other case was not adjacent to residential property.

She indicated that she has a hard time reconciling the argument that no industrial should occur next to residential since some industrial is already next to residential uses in this area. Staff indicated that that was true, and that some property across Paris Road that was previously Industrially zoned was downzoned to allow for the future construction of multiple affordable housing units, and that that downzoning WAS supported. There are some residential properties as well on the west side of Paris Road, and they are near the I-G on that side. However, they indicated that the general thought was that Paris Road served as a dividing line of sorts, and that the west side of Paris Road is highly suitable to industrial zoning due to its proximity to the Colt rail line, but that properties on the east side are not that clear cut due to proximity to residential uses. Although staff was not here at the time, they believe that retaining the controls that were put in place under the Planned designation was critical.

This property, although having a commercially oriented Planned zoning designation has remained unimproved over time. While that is true, some commercial property here has been established (Orscheln's). Is it the zoning designation that has caused it to be underutilized? And What about the protections to the adjoin parcels? The applicant could achieve some of the light industrial uses they are pursuing by amending the current statement of intent and site plan without moving to a straight I-G designation. The buffering requirements contained in the new zoning code are similar to what is currently in the Planned zoning property agreements, so those protections would exist either way, but the rezoning could allow more negative impacts such as light, or sound in proximity to residential properties, even with the buffering requirements. Staff contends that any use can be incorporated into a PD plan by modifying the statement of intent and plan. It's not the upgrading of uses so much as it is the loss of protections that were agreed to earlier. Also remember that various planned zoning designations went away and a single Planned district takes the place of all of those, so now you can mix up the uses within a Planned district.

MacMann noted the existence of R-1 property off of Hill Haven Road. Is it true that there are some houses on the southern part but not on the northern part of that land? It might not be built but it is intended for residential.

Stanton suggested that in this instance, a win/win situation could be achieved by leaving the property in a Planned district and pursuing a change in the statement of intent and plan. Toohey asked why the staff was not supportive of this change, since the new zoning code actually encouraged migration away from Planned districts to straight zoning districts that articulate a narrowed range of predictable uses. Staff indicated that while that was true, an M-C designation would probably be more appropriate than I-G in this instance if a regular zoning change was being pursued, even though it is true that there is no other M-C zoned property in this specific area. Staff also noted that most of the other Industrial property along the EAST side of Paris Road has ended up developing out as commercial, even though it had the higher Industrial capability.

Strodtman asked what buffering would be required if I-G zoning were granted. Staff indicated that the requirement is a 10-foot vegetative buffer and an 8-foot tall fence.

The public hearing was opened.

An engineer appeared on behalf of the applicant and indicated that he did try to work with the staff in order to avoid a recommendation of denial and that he believes that a regular zoning designation of I-G would actually provide more protections than the current Planned designation. He provided a handout that answers some questions including a sheet that stated the intent of the existing Planned zoning does not fit the intent of the new code. He noted that the conflict with the Columbia Imagined Plan came about because it appears they simply used the existing zoning, but that does not match the original intent that city leaders envisioned before that. This used to be in a controlled industrial zoning (which was called M-C then). He believed that the size of the lots in and of itself limits more intensive uses on this property. He also noted that the new zoning code tree protections would actually encumber up to 1/3 of the southern parcel, something that does not exist in the current Planned zoning requirements. He noted that road access further restricts some truck access which further limits the uses. He suggested that if the same uses that are being sought in this request could be granted under a Planned district, then why not allow the I-G designation, particularly in light of the fact that the policy embedded in the new code encourages the move away from Planned zoning to a more definitive category? If you approve this request, you will see something very similar to what already exists there. The use does not

seem to be the problem here. He indicated that if this request is denied, they will pursue a change to the existing statement of intent, but that the Planned district zoning inhibits interest in the utilization of the property due to both time and risk. He noted that one specific company had walked away from using the site because of the unpredictable nature of the Planned zoning rules. He also noted that he has met with the neighbors who have expressed opposition to this project and that there did not seem to be much common ground between the two sides.

Stanton asked why the parties couldn't just work this out. The applicant responded that they thought they could work this out and that the staff would support it and that to qualify for a similar use by changing the rules of the Planned district would cost in the neighborhood of \$25,000, 3 to 4 months in time, and would still have an uncertain outcome. He further indicated that moving to a standard designation was exactly what the new code encouraged and that adopting a commercial zoning classification like M-C would be the equivalent of spot-zoning in an area that boasts very little commercial, retail uses.

Loe suggested that one way to work this out due to the different adjacent uses would be to zone one lot M-C and the other I-G. MacMann asked for more detail about potential lighting and it was indicated that standard lighting configurations would apply and that another engineer could address that in his presentation.

The next speaker who appeared lives on property adjacent to the current Orscheln's operation. She indicated that when that was built there were all kinds of promises made in terms of buffering and protections and that most of that never materialized and that the vegetative buffers that were in place all died. When we sit down in the kitchen in the wintertime when there are no leaves on trees, the light shines in our eyes. She indicated that her husband is a former member of the P&Z Commission and that he firmly believes that the true intent of the code is that I-G and residential are not compatible.

The next speaker was another engineer who contended that this, in fact, was not really a commercial/retail district at all. He noted that this has been known as "Contractor Alley" for years due to its use for industrial and heavier commercial enterprises. He argued that the creation of the new I-G zoning designation was specifically designed to allow for lighter industrial uses, with heavier uses remaining conditional, and without having to invoke a cumbersome Planned zoning scenario. He noted that the protections in the I-G district are better than in the current Planned zoning designation with the exception of building height. He indicated that a hotel could possibly be built in this I-G zoning, and that could be a tall building, but that any new hotel would be built on Highway 63 or I-70 – not on Paris Road – other industrial up and down Paris Road is 35 feet max. He provided a handout to the commission that compared the Planned and I-G rules and restrictions and noted that really heavy uses are conditional and would be required to get additional permissions. But, he asked, don't make us come back just to be able to change the footprint of a reasonable building just because a Planned district requires such action every time any change is requested.

The next speaker rose in opposition to the plan and stated that the only things that are sure in life are death, taxes and the fact that the city will change its mind. He suggested that this request is nothing more than a plan to landbank this property and that it is not the job of the city to allow people to make money. The applicants bought this land knowing what the rules were at the time. In fact, the property used to be called M-C and was intentionally changed to Planned, now they are asking to go back to a NON-planned designation with more intensive uses. He mentioned that most of the former ag land around here has been platted for residential use, and that although one man earlier wanted to put in a

gym, he died before the project ever got off the ground. He stated that the Planned designation represents a set of negotiated standards that were designed to protect all property owners, and that if the applicants want to change those agreements, then we expect to be at the table and we will be asking for something in return. I work in this industry. I know about community planning and design. Are we like windshield wipers that have to keep going back and forth? This is up against residential. It is different than another tract nearby that you considered earlier. I helped work that planned district out and we used a concentric model where uses became less intensive as you went out. In the other case, because there was nothing on the other side, it has no impact on residents. Here, it is right up against it.

Would you want Highway 63 in your back yard? No. some mixed uses are fine, like where you have a drug store in a residential area. But this is not that place. When the wind blows I smell vanilla or hotdogs. With Orscheln's we get light and noise. If you take away the plan, we lose our negotiating ability. Plus, these standards are only enforced on a complaint basis and we have about given up trying to make that work. We would have to take a civil action. They have rejected our earlier ideas. We don't know what will happen with other properties.

The next speaker was the applicant. He wanted to point out that this area is used as an industrial corridor, and everyone has referred to it that way. This is a great fit. The Columbia Imagined designation does not really have a real basis in use. It seems like it was simply listed that way because of some single use in the area. Also, this P-D was adopted for a use that doesn't apply to us anymore. The I-G has the same protections or better, so we are asking for your approval.

Stanton asked why we would give up the protections that you have to work under now for something less? This makes it very difficult for us to offer the property to good tenants due to time, cost and risk. I am a win/win kind of guy. How can we make this work? The applicant indicated that he can appreciate looking for a win/win, but in the current situation, we are the loser. I am not a zoning expert, but under planned zoning, I don't just have to come back and talk about use, I have to come back each time to change building location, trees and landscaping changes – every detail. It takes time, money and lots of risk. Stanton thinks the parties are close and that maybe the applicant hasn't made enough of an effort. The speaker indicated that they have tried to make this work and have modified plans over time. We had a viable use that did come to us, but they went to the other side of the Highway in an Industrial zone. It was because they assembled a shower door and they were considered to be a manufacturer and that was not listed in our statement of intent, but it was no more intensive than anything on this side now.

Loe asked if the applicant would consider M-C on one lot and Industrial on the other? The applicant was not sure and did not want to make that decision on the spot. Another option would be to rezone only the south site and not the north one? Not sure. I think our intended uses would remain constricted. I don't know. Maybe we could do that, but I don't really understand why. Loe indicated that some of this property was immediately adjacent to residential and that might be a big factor. I guess it would be more appealing than the current option, but I don't think our request is wrong.

MacMann indicated that there are some pent up bad feelings over a buffer that was not maintained. I think some objections could go away if that bad buffer could be addressed. The applicant indicated that he doesn't own that property and did not make those deals. I understand that those trees died and that that rule has not been enforced by the city. It's actually an excellent point to demonstrate that the Planned districts don't always work. One of the problems is that you have all kinds of districts all over the city with different rules and that adds to the problem of enforcement – it doesn't fix it.

Strodtman indicated that he thinks enforcement is a problem in general, not just here.

The public hearing was closed.

Strodtman stated that Orscheln's was actually a part of an old PD and then it went to its own PD plan now. It absorbed all the usable square footage allowed in the Planned district, so it got split off so the two outer lots could develop. At that time, the amendment excluded the Orscheln site that now applies to these two lots. He also indicated that they are currently pursuing some remedies regarding the buffering on this site. Yes, it is true that we are trying to get away from Planned zoning under the new code and let the new code operate, but sometimes we will need to deal with Planned zoning. We would like to eliminate Planned Zoning.

Stanton indicated he would support a split vote on the two parcels, but we can't do that without the permission of the applicant, and it does not appear we have that at this time.

Burns indicated that she does not plan to support this, although she does believe that reasonable cases were presented by both sides. It concerns me that the applicant can't take the extra time to work this out. But, I am encouraged to hear that the applicant would consider amending the statement of intent to make this work.

Rushing made a motion to approve.

Loe indicated that she understood the neighborhood concerns but that the code actually does not prohibit I-G next to R-1 or R-2 and there are lots of instances where the two are found together in this area. She also noted that the neighbors who are opponents are not actually adjacent to these properties. They are adjacent to Orschelns and were impacted by that retail operation, not this project. She intends to support this application. Rushing also thinks they made an excellent argument and will also support this.

The motion to approve passed 6 to 3 with MacMann, Burns and Stanton voting "no".

Staff indicated that this will go to council at the first meeting in March.

COMMENTS OF THE PUBLIC

A speaker indicated that the city's notification has been reduced. The other neighboring parcels are owned by the Arbuckles. Unfortunately, we have codified less transparency. Tenants are never notified of pending changes to the code, only the landowners. The city is supposed to be an umpire. My grandfather was an umpire. He learned to not call it high. Not call it outside. Call it a ball or a strike the way the rules say. This is an example of the umpire trying to change the rules.

COMMENTS OF THE STAFF

Staff indicated that the next meeting would be on February 22 and that the next regular meeting was canceled. He also indicated that a worksession would also be held that evening and that they would address issues relating to development in flood areas and may bring forward a text amendment for consideration.

Other cases that will be considered that evening include the Delta Tau Delta case regarding platting and design adjustments. Public hearings will also be held on the Alberty Annexation at Scott and KK asking for M-N zoning, and the Crosscreek Lot 205 PD plan revision. Two other items MAY be on that same agenda. They are Strawn Road property that was recently donated to the city. That could involve annexation and zoning to R-1 on parts of the property. This could also be subject to some additional public comment. This will be different because there will have been other public input involved.

NEXT MEETING DATE – February 22, 2018 @ 7 pm

ADJOURNMENT

**(A link to a video of this meeting is available here:
[City of Columbia Streaming Video Archive – January 18, 2018](#))**

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