



Columbia Planning & Zoning Commission Meeting Recap

Council Chambers, Columbia City Hall
7:00 PM Thursday, March 8, 2018

CALL TO ORDER (Members present: Burns, Harder, MacMann, Strodman, Stanton, Russell, Rushing.)
(Members absent: Toohey, Loe.)

APPROVAL OF AGENDA (Agenda approved as submitted.)

APPROVAL OF MINUTES ([Minutes from March 8, 2018 meeting](#) approved as submitted.)

SUBDIVISIONS

Case # 18-59

A request by Engineering Surveys & Services (agent) on behalf of Columbia Public Schools (owner), for approval of a one-lot final minor plat to be known as "CPS Waugh-Locust Subdivision", and design adjustments regarding the amount of right-of-way dedicated with the plat and waiving corner truncation at the southeast corner of Waugh and Locust Streets. The 2.22-acre site is zoned R-MF (Multiple-Family Dwelling) and is located at 1208 Locust Street.

(Action: Staff report was presented. The applicant is seeking approval to replat portions of Samuel's Third Addition to Columbia, Price's Addition to Columbia, and G.M. Perkins Subdivision into a single lot. The plat is required to eliminate construction across building lines and is in advance of future site redevelopment. Columbia Public Schools' representatives have indicated a desire to remove trailers on the site via a future expansion to the Lee Expressive Arts Elementary building (addressed 1208 Locust Street). Any future building expansion shall be subject to the requirements of the R-MF zone. The applicant is also seeking two design adjustments. The first design adjustment is to waive the dedication of additional right-of-way (ROW) along College Avenue and Locust and Waugh Streets. The second design adjustment seeks waiver of the corner truncation at the southeast corner of Waugh and Locust Streets.

The applicant is requesting a design adjustment from Section 29-5.1(c)(4)(ii), which requires the dedication of additional right-of-way to ensure that substandard streets contain required half-width to meet the City's street standards. College Avenue (Missouri Route 763) is a major arterial with an existing 36.5' half-width adjacent to this property. A 53' half-width is required. The applicant does not propose to dedicate additional ROW along this frontage; therefore, is seeking a 16.5' waiver of the ROW required for major arterials. Locust and Waugh Streets are local streets requiring a minimum of 50' of ROW (25' half-width).

The present street corridor is 40' (20' half width) for each street. The applicant does not propose to dedicate additional ROW along either frontage; therefore, is seeking a 5' waiver of ROW required for each street. It should be noted this plat will formally dedicate the land from the centerline of Locust as platted ROW matching what is already shown in the City and County's parcel records. The City's Public Works staff has evaluated the ROW design adjustments requested for Locust and Waugh Streets and supports them. Such support is given based on the fact that Locust and Waugh are one-way streets with no future plans to improve the streets beyond the existing footprint or convert them to two-way streets. Additionally, on the eastern side of Waugh there is a 237-foot retaining wall that would fall within the public ROW if additional ROW is dedicated which would require the City to maintain the wall or issue a right of use permit to Columbia Public Schools. The City does not desire to maintain the retaining wall.

MoDOT has control of College Avenue along the site's frontage and has indicated support for the requested design adjustment and has provided the applicant with design plans for the upcoming sidewalk project which will fall within the existing ROW. The plat also dedicates ten-foot utility easements along Locust, Waugh and College, respectively, bringing the streets into closer compliance with the City's subdivision requirements in this regard, and taking into account the presence of existing utilities.

The second design adjustment requests waiver from Appendix A.6(b) of the Unified Development Code (UDC) which describes the requirements for a corner truncation for ninety-degree intersections. Based upon the existing standard, the applicant is required to provide a 20' corner truncation at the southeast corner of Locust and Waugh Streets due to those streets being classified as residential. This street classification has been applied given the mixed-use environment that is predominately residential in nature. Schools and churches are allowed uses along residential streets. The City's Public Works staff evaluated the requested design adjustment and support granting the waiver. This support is based upon the fact that adequate sidewalks exist along Locust and Waugh Streets adjacent to the property and that waiver of the required truncation would eliminate any potential encroachment of the existing 237-foot retaining wall within future public ROW. It was also noted that no other corners at this intersection would be required to comply with the existing rule in a similar fashion and that rules pertaining to one-way streets do not apply in this instance.

Burns asked about the width of the existing sidewalks and staff indicated that the existing sidewalks are of varying widths. MacMann indicated that some further discussions will occur in this regard as older parts of town are redeveloped.

Public comment was opened, and none was provided.

The motion to approve was passed unanimously, 7 – 0.)

PUBLIC HEARINGS

Case # 18-68

A request by Jaime Coleman (agent) on behalf of Pompie, LLC (owner) to revise the Statement of Intent for property within The Colonies Lot 101 & 102 OP Plan to allow "Personal Services, General" as an additional use. The 1.1-acre property is located on the east side of Colony Drive, approximately 400 feet north of the Forum Boulevard and Katy Lane intersection, and is commonly addressed as 2614 Forum Boulevard.

(Action: (Action: The applicant is requesting to add "Personal Services, General" to the list of permitted uses for the site. The site and neighboring properties (approximately 4 acres) was previously zoned as O-P with the intent of development being focused on office usage as part of the greater Colonies

development - a C-P/O-P project. Furthermore, this specific site has an existing O-P development plan associated with it as well, The Colonies Lot 101 & 102 OP Plan. At the time the site was zoned O-P there were no requirements for approval a Statement of Intent (SOI). Uses permitted on the site were contained in the ordinance approving the O-P zoning. As such, this application requires that an SOI be prepared. The attached SOI includes the proposed "Personal Service, General" use as well as all other uses previously listed in the O-P zoning ordinance. Additionally, the SOI includes other site-specific regulations typically found in previously required Design Parameters. The requested use is currently a conditional use within M-OF (Mixed Use - Office) district and permitted in all other mixed-used districts. The use is also allowed within the PD district subject to Council approval with or without conditions.

Regarding how the proposed use will affect the site, the requested use has a lower parking ratio requirement (1 space/400 sf) than a general office use (1/300 sf), so the ability to provide required minimum parking should not be affected. Peak hours for the site should be similar, with the exception that Personal Services are more likely to see after-hour trips and weekend trips, although the expected number of trips would be relatively low. If revision conditions on allowing its inclusion within the amended SOI are appropriate it should be noted that the site is located at the transition point between the former C-P zoning to the north and the former O-P zoning to the south. The proposed addition of Personal Services to the subject site without added conditions would not be a dramatic departure from the allowed uses in C-P portion of the overall development. Additionally, the site is not adjacent to residential uses and is not anticipated to create higher demands on infrastructure such as parking.

Staff recommends approval.

MacMann asked if there had been any input from neighboring commercial uses. Staff indicated that there had been one call. Strodtman asked if physical fitness centers would be allowed here. Staff indicated that extensive physical fitness center use had been withdrawn by the applicant.

Public comment was opened.

The first speaker indicated that he was an immigrant and indicated that his family lives in this community and wants to make sure that he is in compliance with the letter and spirit of the law and that they all give back to the community in different ways.

No further comment was forthcoming.

The motion to approve passed unanimously, 7 – 0.)

Case # 18-73

A request by Central Design Group (agent) on behalf of School of Service, Inc (owners) (also known as Access Arts), seeking rezoning of three properties on the west side of Old Hwy 63, between Amelia and McAlester Streets. The property consists of 0.55 acres and is currently zoned R-1 (One-Family Residential District), and the applicant is seeking M-OF (Mixed-Use Office District) to facilitate the construction of a new office building.

(Action: Staff presented a report. The rezoning is to facilitate development of the property with a single office building to house Central Design Group's office functions. The current owner, Access Arts (dba School of Service, Inc.) is making this request pursuant to a purchase agreement established with Central Design Group, contingent on Council approval of this rezoning. The intended construction will require that the site be raised, by placing fill across the parcel, to a point near the existing grade elevation of Old 63.

Hildelle Village was originally platted in June of 1940. At that time, the subject site was platted as 2 single-family lots and a portion of a lake created by placing a dam near the western edge of the acreage. In June 1955, the plat was updated to remove the lake and adjust the lot lines of the subject site to create Lot 3 and 2 additional lots elsewhere within the subdivision. Since 1955, the three subject lots have remained undeveloped. This lack of development is potentially due to the site's topography and stormwater considerations which may make the property less desirable and cost-prohibitive for single family construction. Additionally, vehicular access onto Old 63 for three residential lots would be unsafe and undesirable. Since the properties were previously platted, each would be permitted driveway access to Old 63. The proposed office function would limit access to one location, and vehicular trips per day would be concentrated to the times of the office opening and closing. Vehicles leaving single family residences are typically backing out into traffic, whereas a parking lot would allow for site users to exit the property in a much safer manner.

The Columbia Imagined Future Land Use Plan designated this parcel as a part of the Neighborhood District, which is designed to accommodate a broad mix of residential uses as well as a limited number of nonresidential uses that provide services to neighborhood residents. While the intended use will likely serve a customer base broader than that found in the immediate context, the intensity of the office use is much less intrusive than what could logically be permissible in the Neighborhood District, such as a retail use. Also, other contextual properties, such as Landmark Hospital directly across Old Highway 63 and the primary Access Arts property approximately 200 feet to the north, are considered a part of the Employment District, which would accommodate an office use. The Access Arts property to the north is zoned M-OF which serves as a transition from the residential lots to the commercial properties further north along the Old 63 corridor. Office uses are considered transitional in nature, because they serve as a low-intensity buffer between residential and commercial uses. Office uses would typically be limited in hours of operation, and daily vehicle trips are considered to be minimal. The subject property also lies in a transitional area along the Old 63 corridor, where existing uses become more intrusive from this point moving northward.

Section 29-4.4(e) of the UDC also requires site-specific transitions, in the form of screening and buffering, between inconsistent land uses. In instances where a mixed-use property would abut residential lots, such as in this case, a 10-foot wide landscaping buffer strip is required in conjunction with an 8-foot tall screening device. Where the property abuts the green space common lot along its east boundary, it would require a 6-foot wide landscaped buffer. These buffers would serve to soften the appearance of an office building and define and divide the two uses from one another. Stormwater management is another primary concern on this parcel. The entirety of the Hildelle Village block drains to the center of the subject site and then to east under Old 63. The City's stormwater management ordinance would permit the site to be raised to accommodate the proposed development, requires that the new development not increase stormwater runoff onto adjacent lots, and restricts the volume of runoff following development to a level no greater than pre-development. What this means is that any proposed development of the site will need to address the existing stormwater conditions and accommodate the needs generated by new development. Stormwater management is a matter typically handled at the time of permit application and not generally used as a factor of determining land use compatibility.

Given the obstacles to single-family construction and the public comment received in opposition to M-OF request (see attached), a number of alternatives to the requested zoning change could be considered. One such alternative is to rezoning the property to R-MF. This action would permit multi-

family development and likely allow for the costs of developing the property to be offset, however a multi-family use on this property is not supported by Hildelle residents or by City staff. A second alternative would be to consider the appropriateness of a planned district in this instance. A PD district designation would permit use limitations to be established that potentially restrict multi-family development, but permit office and other low impact non-residential uses. However, staff has concern that such use restrictions may be within such a narrow scope that site development would become stalled if the applicant's proposed office were not completed as planned. As the rezoning request is direct and not speculative in nature, Staff believes the requested rezoning is realistically the best opportunity for this parcel to be developed and supports it for approval due to the existing site development limitations. Office uses are low-intensity transitional uses that are compatible with residential zoning. Screening and buffering required by the UDC would mitigate much of the negative interaction between the two uses.

Staff recommended approval of this request based on development potential and embedded neighborhood protections. Staff also indicated that this is a straight zoning request and a formal development plan is not required at this point in the process. It is not a planned district and future building plans will not be subject to an additional approval by P&Z.

The public hearing was opened and Strodman indicated that he would allow 6 minutes for any organized group and three minutes to additional speakers, and that rule would apply to both sides of the issue. He encouraged people to not be repetitive in comments.

The first speaker was a representative of the Hildele subdivision. He stated that there are existing covenants that prohibit this type of development and that the applicant is subject to legal action. He indicated that this development provides no benefit to local residents; that it violates the subdivision covenants; that those covenants should not be superseded by re-zoning; and that this area is dominated by R-1 zoning. This is an ill-conceived action that violates the intent of the general land use agreements in this area. Some uses may be alright, but not this. Upon questioning from MacMann, the speaker indicated that they would move forward with a legal challenge. Stanton asked what the speaker wants. He indicated that he wants the applicant to comply with the existing covenants and that this is a violation. Strodman asked about the common ground in this area and asked who maintains this area. He indicated that the local association meets annually to provide ways to maintain the property. When asked what was appropriate for this area, the speaker indicated that residential would be appropriate, but even that provided problems due to access from individual lots to Old Hwy 63.

Staff added that the local zoning code is not intended to abrogate or interfere with local covenants, but that the city is not obligated to enforce any covenants and that that is the responsibility of the residents or neighborhood association.

The next speaker indicated that he has redeveloped a local home in this area and he likes the neighborhood. He believes that this is a residential neighborhood area. He supports Access Arts, the owner of the land in question, but he does not believe that every piece of property in this town needs to be developed. Stanton asked what the speaker would like to see in this area. The speaker responded that his property was actually zoned R-3, but that he would like to downzone it to R-1 and that the neighborhood open space should be preserved.

The next speaker indicated that she had moved to this area and originally did not want to become a member of the neighborhood association. Ultimately, she became involved and mentioned that some

properties in the area had been downzoned. There are three properties in the area that are non-profit properties. She welcomes them, including the church and other properties that return benefit to the neighborhood. She does not believe that this proposal fits that model. She further indicated that stormwater management issues are at play here. She indicated that the majority of members present at a recent Hinkson Creek CAM stakeholders meeting believed that this development would contradict the intent of the work that group is doing.

The next speaker indicated that significant public correspondence has been sent to the P&Z. She believes that this building is much more intensive than any residential use; that this office will not provide services on a local basis; that their scope of work is primarily based in other communities; and that this was not an appropriate project.

MacMann indicated that he had significant concerns regarding stormwater runoff.

The next speaker indicated that she owned property in this area that is rental, and they have developed responsibly, but that she likes Access Arts, which is more commercial in nature, but that they have been good neighbors. Stanton asked if someone is paying a mortgage on this property, what is their right to change the zoning? She indicated that she is in that same position, that she owns multiple properties in this area, and that it is an ethical choice. She admitted that she had taken a loss on her own properties to do the right thing.

The chairman asked if there was a representative of the applicant. None responded at that time.

The next speaker indicated that there was a large open space in this area that extended from Ann Street to Old Highway 63 and that this commercial development would change the nature of the neighborhood. This proposal goes against the original intent of the development of this area as single-family residential and that this proposal would add uncertainty. He asked to maintain the existing R-1 zoning.

The next speaker was the current owner of the property in question. She is also the head of Access Arts. She noted that this has become a very emotional issue. She is disheartened to hear that such opposition would occur. She believed that she was their ally. She believed that she helped maintain this area and that they have consistently provided support to the area. She was stung by local opposition. This piece of property has been on and off the market for years. Why did the local neighbors not band together and buy the property instead of simply opposing the plan put forward? I am disappointed in the opposition, but still believe this is the right disposition of this property. She appreciates Stanton's question about what if the shoe was on the other foot. If this proposal goes forward, the Access Arts program will be on better financial footing and it will benefit everyone.

Stanton asked if there was another way to work this out. The speaker indicated that there are always opportunities, but that right now, no other options are on the table. If the neighborhood would like to buy this property, that would be fine, but we have no other viable options at this time.

MacMann asked about the status of Access Arts in terms of being a respected non-profit organization. He suggested that the neighbors would sue them if they go forward. The speaker indicated that they have now asked legal council to represent them in this regard. She also indicated that they had talked to some investors regarding the construction of tiny houses, but that offer had been removed, and that their only other option would be to leave this property on the market as is. Upon questioning, she

indicated that they have uses that back up on this property and that they do not believe this will damage them. She indicated that years ago there was a low bid on the property that would have resulted in the construction of an apartment on this site, but that did not materialize, and it would have fully occupied the lot.

The next speaker indicated that he was speaking on behalf of the applicant. He indicated that some handouts that he has were proprietary and did not want them publicly displayed. Staff advised him that if he submits them, they WILL become public. The speaker continued and indicated that they picked this site because of the neighborhood feel. However, he noted that there is a lot of transient foot traffic in this area, and that the green space behind this proposal was of benefit to the applicant as well as the other neighbors. He indicated that he has met with the neighborhood association and that the association agreed to allow this to contradict existing covenants. He then met with the Benton Stephens group, and it was a split decision. The speaker indicated that if they had been rejected early on, they would have abandoned the project. That didn't happen, so they are pursuing this.

MacMann then asked about stormwater backup on the adjoining properties. The speaker indicated that they are an architectural firm, but that stormwater would be drained from adjoining properties by a pipe and that that is already in place. They have seen no water back-up problems witnessed over the course of the past several months. Stanton asked if they were surprised by opposition to this plan. The speaker indicated he was not surprised. He indicated that they studied this and that they will only have a 12-foot rise to eave on both sides of the building. Under current conditions, they could build a two-story residential building. They have designed this project to have parking in the front, not the rear, and that there would be 15 to 17 parking spots on-site. There will only be one entrance onto Old Hwy 63, which is less than what would be allowed under residential requirements.

The next speaker is an architect and appeared on behalf of the applicant. She supports Access Arts and assured the council that this building will be designed within scale to surrounding buildings, that the proposal will not generate a lot of new traffic and that stormwater will be controlled. This will not lead to further commercial development in the area because the surrounding neighborhood is already developed. I support Access Arts. If the association really wants to maintain this area, they should buy it and pay the taxes on it.

Rushing asked if the speaker would welcome this type of development next to her. She indicated that she had considered that, and would welcome that, but she does not own the neighboring property so that is a difficult scenario.

The next speaker indicated that he had bought property in this area and he expected the ongoing use to be residential. He also explained that the neighborhood vote was taken with some people not being able to attend.

The next speaker indicated that she owned property in this area and that some neighbors have not been able to participate because the property owners spend the winter in Florida. She and her husband do not agree on this issue. However, they have looked at this property before, and believes that it is not best suited for residential construction, but that no serious discussions about the neighborhood purchasing this property have been held.

The next speaker is a utility contractor. He appeared on behalf of Access Arts. His determination is that it would be impossible to put three individual homes on this property due to existing utility access and

features. This new plan would use less than 30% of the actual space. If this is rejected and everyone has followed all the existing rules, nothing will ever happen here. If you don't rezone, nothing will ever happen here. People need to be able to use their property and we already have a lot of rules affecting development.

The next speaker indicated that there is no meaningful property tax currently being paid on this property. This proposal will change that. Furthermore, removing the burden for maintaining the property will free up resources for Access Arts. There is no benefit to leaving this undeveloped except to a few neighbors who live in this area who want the aesthetic value from property they don't own.

The next speaker indicated that he would not be in Columbia except for the Access Arts program. He is from another area and this program has served him well. He wants them to succeed. He has completed his MFA. He is the one who mows that lawn. It is full of water a lot of the time, but this property is not going to be the problem. Water is already there because it funnels down from the residential neighbors.

The next speaker lives across Old Hwy 63 from this site. He is worried that his driveway is across from this project and that it will create a dangerous situation. Strodtman indicated that because the driveways are directly across from each other, it may be better in terms of safety.

The next speaker indicated that she lives in the area and that several people in her family also live there. She is on the board of Access Arts and has indicated that there are water problems there now and that this project may help address that and reduce traffic. She has seen rats, homeless people and sleeping bags in this area. Some neighbors may not want lighting, but I think it will be safer.

The next speaker is a business owner in the North Village Arts District. She had challenges when she opened her business and met with North Village. They have partnered with Access Arts. She believes that these people are great citizens and does not believe that this will be detrimental to the neighbors. I would accept this next to my home. I would be willing to live in a mixed-use neighborhood. What's best? This would be a great opportunity to show everyone what a collaborative community looks like.

The next speaker indicated that there are some neighborhood covenants in play. He is on the board of Access Arts. They have met with the subdivision homeowners' association. They put it on the agenda, they discussed whether there was a quorum, they proceeded and voted in favor of this project. The lawsuit threat may not be a critical matter.

The next speaker indicated that she thought stormwater was the key issue. This area is always wet. Hope the developer understands his responsibilities.

The president of the Benton Stephens neighborhood appeared and indicated that there are covenants in this area that have existed since 1957, The city may not have the responsibility to enforce this, but that does not mean that they don't exist. He also claimed that this is spot zoning. There may be surrounding businesses, but we did not want those either. Why should we only look at residential properties who bear the cost of maintenance. Don't establish a precedent. This is incremental. Some of the businesses that exist in the area did not exist years ago, and now they are being cited as a reason to build this. Benton Stephens took no position on this issue because they did not feel that they should be pushed into a vote.

Next speaker is a Benton Stephens resident and former P&Z Commissioner. We have seen stuff about properties with restrictive covenants. They were in place at the time this property was purchased. If they wanted to fight this, they could go to court, but they did an end-run by coming to P&Z. This will open up the area to creating more R-MF. The applicant never tried to get a waiver of the covenants from Hildele and so he will end up in court.

The next speaker indicated that he lives right next to this area. He does not see a problem. I think this is going to be a nice building. Something worse could happen. The green space is nice when its dry. When its wet, there are a lot of pests. I don't understand why people would rather sue than work it out. People try to take care of vacant property. Nobody seems to care until someone else wants to do something. I thought it was important for someone who lives there to say something.

The next speaker lives on Ann Street. He believes that he may make both sides mad today. He does not want multi family going in this space because then people will use that green space they currently protect. He does not want multi family going in there. We have no assurances here, so maybe this particular office building would be OK. Strodman indicated that R-MF uses would not be allowed on this property. It is listed as an alternative, but is not under consideration tonight. The speaker indicated that possibly this should be zoned under a planned designation. He indicated that he is sticking with his neighbors to oppose this request. Strodman indicated that we are not rezoning the green space, just the property along Hwy 63. The speaker believes that the green space is valuable and should be protected.

Staff indicated that multi family homes WOULD be a permitted use in the mixed-use zoning category, and multi-family could be invoked under the office zoning requested. This contradicted Strodman's contention and Strodman deferred to this interpretation of the rules.

Public hearing was closed.

Russell began the conversation by suggesting that if neighbors want to protect the land and restrict it, they should buy it. She thinks the lighting will be beneficial and that she intends to vote in favor of allowing this project to go forward.

Rushing thinks that Old Hwy. 63 is commercial, and this is appropriate. She also indicated that Benton Stephens is a unique residential area. She also believes that this property cannot be developed as residential. Mac Mann believes that the HOA should have standing and we should not undermine them. He believes that Mr. Campbell could resell this property.

Burns indicated that there is a lot of passion on both sides. She respects Access Arts, but does not think that the commission should consider who the applicant is when they decide this. She wants the HOAs to have teeth and will vote no on this proposal.

Stanton wondered why we have all these overlays and rules and then it comes down to covenants and the city cannot enforce them. I am looking for a win-win. I think the people who own the property should have the right to use the property to survive, so with a heavy heart, let's go to war and let them go to court. Harder spoke in favor of the proposal and believed it will be an improvement to the area.

Russell moved approval of the proposal.

Motion passed 5 – 2 with Burns and MacMann voting no.

A motion to refer this item to Old Business on a future City Council agenda was made and approved. This motion would prevent the item from proceeding directly to the Consent Agenda.

Case # 18-83

A request by the City of Columbia to amend Section 29-5.1(b) of the Unified Development Code as it relates to avoidance of sensitive areas, land analysis mapping, and preservation of sensitive areas. Comments were received on this matter at the March 8, 2018, Planning Commission meeting and has been scheduled for a public hearing and vote on March 22; however, may be delayed based upon additional public testimony.

[Proposed Text Amendment](#)

[Public Correspondence \(as of 3-16-18\)](#)

(Action: A preliminary discussion of this issue occurred at the March 8, 2018 P&Z meeting. The City is proposing amendments to Section 29-5.1(b) the Unified Development Code (UDC) as they relate avoidance of sensitive land areas. The proposed revisions were precipitated by the identification of a conflict between Sections 29-5.1(b) and Section 29-1.6. The conflict that has arisen has to deal with the designation of the flood fringe, a part of the FP-O (Floodplain Overlay) district, as a sensitive feature that is restricted from all development. This classification conflicts with the provisions of Section 29-1.6 which states that if a conflict exists between the provision of an overlay zone district and another regulation within the UDC, the provisions of the overlay zone shall govern. Staff explained that notification of this item was published and advertised as required. He indicated that the original intent of this measure was to clarify the intent of the code, but that other items had been introduced by previous speakers that brought up some other issues within the code. Those items were considered and added to the mix of items here for clarification. Such issues include the definition of steep slopes that are man-made vs. natural. Another amendment deals with issues of the definition of steep slopes. This has been discussed before, but there is still an issue of clarity. Land disturbance rules allow 33% slopes, but the code restricts slopes to 25%. Another group has advocated for 15% slopes, but those were originally intended to be applied to stream corridor. We should most likely make all of these match up, since permission could be granted under one rule, but not the other. This is supposed to be a unified development code. This restriction applies to the land analysis map, not the construction code. The standards should match. This has been controversial, but it should be considered.

The next issue has to do with flood plain maps. They are somewhat arbitrary and by virtue of that fact, there should be recognition of LOMARS that have been achieved even if they do not show up on FEMA maps that were in effect earlier.

We are further asking for clarification of what must be included on land use maps. Staff believes that the associated zoning should be listed, and furthermore that there is justification for disturbing sensitive lands and that such a request is justified by a certified engineer.

Another clarification came from staff and suggested that small slivers of land that may be in a sensitive area could be included in a common lot designation rather than being separately platted.

This proposal would add clarification and justification of density bonuses, and also adjust parking requirements to make them more compact on a site to avoid construction in a sensitive area.

We have other storm water measures in place, and those are not under discussion tonight. However, these provisions are being proposed for clarity and will allow the normal development of property under the rules established by the new code.

We recommend approval of all of these proposals. These standards apply to a pre-mapping process. We utilize them when applicants talk to staff up-front and help us to preserve primary sensitive areas. These provisions provide clarity to that process.

In short, the provisions of Section 29-1.6 permit development within the flood fringe provided such development complies with the provisions of the FP-O district. The FP-O district includes specific regulatory provisions which have been accepted by Federal Emergency Management Agency (FEMA) that authorize the City to permit development within the flood fringe. Applications for construction permits must obtain a "Floodplain Development Permit" prior to commencing construction within the flood fringe. The FP-O district also contains other flood related provisions designed to protect the health, safety and general welfare of the city's residents, minimize flood-related losses, and maintain the City's eligibility for participation in the Flood Insurance Program.

In addition to the primary purpose of proposing the text change, the attached amended ordinance addresses several public comments received at the March 8, 2018, Planning Commission meeting regarding Section 29-5.1(b). When viewed holistically the proposed revisions not only remove the regulatory conflict, but also provide clarity to the existing regulatory text and add incentives to preserve sensitive features that are no longer protected due to the exemption provided by Section 29-1.6.

It should be noted that the City's regulatory processes for land disturbance and stream buffers found in Chapter 12A of the City Code provide additional levels of protection for the built environment. Concerns were expressed at the March 8 Commission meeting that the proposed revisions would weaken the protections currently in place and potentially make worse existing stormwater or historical flooding conditions. While an expressed concern, staff is unaware of any actual instance in which new development has worsened an existing condition.

Furthermore, the approval of the proposed revisions is to primarily correct the existing conflict, add incentives to protect what has been lost through the permitted exemption, and add clarity to what is expected of the development industry when approaching new development containing identified sensitive features. It is staff's belief that the proposed amendments will not diminish the regulations' effectiveness, but rather enhance them.

Below is a summary of the modifications of the text and an explanation of why the changes were made.

29-5.1(b)(1)(ii)(A)

Text added was to address a public comment that noted the USGS maps are arbitrary. The added text provides reference to Chapter 12 A, as suggested, which defined the City's stream classes (Type I, Type II, Type III).

29-5.1(b)(1)(ii)(B)

Text added to address public comment regarding defining what type of steep slopes where intended to be regulated. The revision to the percentage of slope to be regulated was reviewed by staff and found to be a reasonable revision given that the 33% (3:1) is consistent

with the regulatory provisions that are applied with building permitting and other land disturbance activities. The revision would ensure the UDC's provisions are aligned with other regulatory standards enforced by the City.

29-5.1(b)(1)(ii)(C)

Text added to address public comment and to acknowledge that properly modified floodway designations will be accepted at the time of land analysis map submission.

29-5.1(b)(2)(i)

Text added at the request of staff to provide clarity on what sensitive features were intended to be avoided.

29-5.1(b)(2)(i)(A) & (B)

Subsections added to provide greater clarity regarding what must be submitted as justification to allow a lot proposed for development to contain a sensitive feature.

Text in item (A) added by staff and would require applicant connect request to an actual code provision necessitating the need for the sensitive feature to be located on the lot.

Text in item (B) added to address public comment. Text furthers the purpose for the requirement of a land analysis map and promotes the broader goals of the UDC as well as the comprehensive plan.

29-5.1(b)(2)(ii)

Text added at request of staff for clarity on how sensitive areas could be preserved. As written, the provisions of this subsection would allow the creation of lots containing sensitive features, provided that they meet the criteria of 29-5.1(b)(2)(i), and either place the features within a preservation easement or on a common lot. This amended text replaces proposed text from the March 8 draft that specifically restricted development lots being created that included floodway (a sensitive feature) within their boundaries.

29-5.1(b)(4)(i) & (ii)

Text added to address public comment and reworked to provide greater clarity on its applicability. The text provides incentives to preserve floodplain/flood fringe areas for both residential and non-residential development.

Burns asked staff about challenges to the steep slope issue. Staff indicated that there have not been challenges to date and most engineering firms have helped in that regard and have submitted accurate data. Right now, development has not been proposed in areas with steep slopes under the new code. There are some areas that have developed, and have been fairly flat, except with fringe areas. There have not been any flash point issues proposed under the new code. The 15% rule mentioned in the Comprehensive Plan is limited in application and is aspirational, not regulatory. A 2 to 1 slope could probably be developed safely.

Next speaker indicated that anything over a 15% slope is steep, and should be noted on a map before development occurs. She also had concerns about any development occurring where there is stream flow. She admits that only 2.6% of area is included in a 15% slope area, but we should know what it is and that is what we are asking for. She challenged the land disturbance rule at 33% and wonders why that was not included in the code debate. Maybe we should be dealing with that. In Austin TX they are undergoing a long code revision and they are restricting anything over 25%. She understands that code revision is a long process and would like to have a little more process included here. MacMann complimented the speaker for being a trooper. She also mentioned that she does not care about some pile of dirt and is OK with changes to other definitions.

Motion to approve text changes was made by Stanton and seconded by Russell.

MacMann indicated that he will vote no and questioned both process and impact. Unless the motion is amended, she will vote no.

The motion passed on a 5 to 2 vote with Burns and MacMann voting no.)

PUBLIC COMMENTS

(None.)

STAFF COMMENTS

Staff indicated that only two items will be on the next agenda.

Subdivision -Riddick Hill

Public Hearing - Auburn Hills police station building site off International Drive.

CIP projects will be discussed at the next P&Z worksession.

COMMISSIONER COMMENTS

(None.)

NEXT MEETING DATE - April 5, 2018 @ 7pm

ADJOURNMENT

(Time: 9:56 PM)

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