



## Columbia Planning & Zoning Commission Meeting Recap

Council Chambers, Columbia City Hall  
7:00 PM Thursday, August 23, 2018

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

**APPROVAL OF AGENDA** (Agenda approved as submitted.)

**APPROVAL OF MINUTES** ([Minutes for August 9, 2018](#) meeting approved.)

### PUBLIC HEARINGS

#### Case # 18-115

A request by Cypress Creek Renewables, LLC (agent) on behalf of Dunlop Development, LLC (owner), seeking to rezone a 93.85-acre property located on the south side of I-70 Drive SE, approximately 2000 feet east of St. Charles Road. The property is currently zoned A (Agriculture District) and the applicant is requesting approval of PD (Planned District) zoning and a development plan, to allow installation of a privately owned and operated 10MW solar energy facility.

(Action: The applicant is seeking to rezone a 93.85-acre portion of a larger 140-acre property located on the south side of I-70 Drive SE, from A (Agriculture District) to PD (Planned District). The applicant wishes to construct a privately owned and operated 10 MW solar energy facility on the 93.85 acres, which they are leasing from Dunlop Development, LLC. Pursuant to the requirements of the UDC relating to PD zoning district designation the applicant has submitted a PD Development Plan illustrating the improvement of the property for its intended usage. The Development Plan will serve as the site's preliminary plat. Associated with the request and in accordance with the provisions of Section 29-6.4(n)(2)(iii)(C) the applicant is seeking a design adjustment from provisions of Section 29-4.4 (Landscaping, Screening, and Tree Preservation) which is described in greater detail below. Additionally, the submitted Statement of Intent seeks to have the parking standards of Section 29-4.3 (Parking) waived for the site.

This application is the culmination of an RFP process administered by the City's Utilities Department to obtain qualified bids from renewable energy providers that could assist the City in meeting its renewable energy targets. After being awarded the contract to provide services to the City, the applicant and City entered into a power purchase agreement relating to the sale of power generated from the facility to the City of Columbia. Power generated from the facility would be fed back into the City's electric distribution system through an interconnection point on the west side of the property that would require extension of two feeder lines from the City's current electric grid.

Separate public information meetings, to be held following the outcome of this request, will be conducted by the City's Utilities Department to establish the feeder line extension corridors.

Prior to submission of this application, the City's Legal Department determined the applicant was not providing a service that met the definition of either a "Public Utility Service, Minor" or a "Public Utility Service, Major". These defined uses were concluded to apply only to regulated public utility providers. Since the applicant is a private utility company they were informed that the proposed solar farm would require industrial zoning. After discussion with the applicant regarding the potential challenges to obtaining approval of such a request they chose to the current application seeking approval of PD zoning.

The proposed solar farm is considered a light industrial use and would be viewed as being inconsistent with Comprehensive Plan's designation of this property. However, given the low-impact nature of the solar farm use, staff believes the proposed planned development is appropriate. Planned developments pursuant to Section 29-2.2(4) of the UDC are intended to, in part, "allow for a mixture of residential and non-residential uses located in proximity to each another when any potential adverse impacts have been minimized, mitigated, screened or buffered".

Adjacent uses to the 93.85 acres to be improved include a developed residential neighborhood to the southwest and undeveloped properties to the east, south and northwest. The remainder of the Dunlop property (46.15 acres) lies to the east of the subject site and is zoned A (Agriculture District). The parcel to the south lies outside the City and is Boone County split-zoned with R-S (Residential Single-Family) west of the creek and A (Agriculture) east of the creek. The R-S portion of this property is adjacent to the proposed 93.85 acres to be leased and improved with the solar farm. Land to the northwest of the 93.85 acres to be improved remains undeveloped, however; the Bull Run Drive area is zoned M-C (Mixed-Use Corridor) and extends north to I-70 Drive Southeast. South of Bull Run Drive there is a tract of PD zoning which is commercial in nature. The residentially developed Eastport Village subdivision lies immediately southwest of the 93.85 acres to be improved and includes both one and two-family homes.

As indicated, the proposed solar farm requires industrial zoning to permit its construction; however, approval of such a land use change would permit a number of odious uses incompatible with surrounding development and infrastructure capacity. A PD district is the only zoning classification in which conditions on future land use can be established. As such, staff believes the use of a planned district in this instance is appropriate and beneficial to neighboring property owners. Furthermore, approval of the attached Statement of Intent, Design Parameters, and Development Plan will facilitate accomplishment of broader environmental management goals and objectives of the Comprehensive Plan as well as assist the City in meeting its sustainable energy targets.

The Statement of Intent, Design Parameters, and Development Plan provide specific limitations on the development of the subject 93.85 acres. The Statement of Intent and Design Parameters provide limits on the usage of the site to the proposed solar farm, single and two-family, and multi-family uses. These documents provide further guidance on setbacks, structure height, percentage of the site landscaped or retain in existing vegetation, signage, parking, and site amenities. The Design Parameters limit the development of the solar farm to a maximum of 48,000 solar panels on approximately 57 acres of the site at a maximum height of 12-feet above the ground. It should be noted that if redevelopment were proposed, such conversion of the land use, due to the Development Plan showing only the solar farm, would be deemed a "major" PD revision and the public hearing process would need to be repeated.

Residential densities could be established as part of the major plan change. Also, per the Statement of Intent the applicant is seeking waiver of the parking requirement for an industrial use. The applicant has stated that this waiver is justified based on the low volume of activity the site will receive annually. Staff has reviewed the parking requirements and finds that the parking required for industrial uses is based on the GFA of building area. Given there are no enclosed buildings on the site and that access drives are shown on the Development Plan staff believes there is sufficient on-site parking to meet future demands. It is supportive of the waiver.

Staff review of the submitted Development Plan and tree preservation documents finds that they meet the requirements of UDC with the exception of the following design adjustment.

Planned district applications may include variations in any development or form standard that would typically be required of the developer. As such, Cypress Creek is seeking relief from Section 29-4.4 (Landscaping, Screening, and Tree Preservation) of the Unified Development Code, in regard to buffering between properties and street trees. Section 29-4.4(e) requires industrial uses to be screened from all other uses (besides another industrial use) by a 10- foot wide landscape buffer with an 8-foot tall screening device. This is the highest level of screening required by the UDC, known as Level 3. This section further provides design standards for such screening; stating that the screening device, or fence, should be installed on the adjoining property line and the landscape buffer shall be installed on the applicant's side of the screening device.

As an alternative design, the applicant has provided an 8-foot tall privacy fence, placed at the 25-foot building setback line along the western property boundary. This location will allow for greater horizontal separation between the solar farm and neighboring residences, in an effort to mitigate both visual and audible impacts. The provision of right-of-way for a future major collector roadway in this location adds to the separation as well. The screening device along the southern property boundary is set back roughly 75 feet. This allows for preservation of the existing trees along the southern property line, which act as a vegetative buffer for the R-S property to the south. Street trees are typically required along all roadway frontages at 40-foot intervals. The subject parcel fronts nearly 2600 feet of I-70 Drive Southeast. This frontage would require a total of 65 trees based upon the required spacing.

The applicant has indicated that initial contract negotiations with the City regarding the purchase of power agreement, did not provide for this expense because they were originally considered to be a public, not private, utility. Additionally, the newly-created road right-of-way along the western property boundary (2600 feet) would require installation of 58 trees. However, it should be noted that upon further staff evaluation street tree installation is typically considered a part of an overall roadway project and thus delayed until after roadway construction is complete to limit potential damage to trees during the construction process. As such, roadway construction in this right-of-way as well as future street tree installation will be the responsibility of the City as well as sidewalk construction. Access drives have been located as required. The future roadways actually provide for separation between properties, but some landscaping is still desired.

Staff agrees with the applicant's contention that the proposed solar farm is a uniquely low-impact use given its industrial nature, and therefore also agrees that the screening and buffering requirements of the code were likely considered in terms of much more obnoxious uses. The applicants have offered an alternative to the screening and buffering requirements that utilizes existing trees and moves their solar farm functions away from neighboring properties which limits view shed impacts as well as any audible noise pollution that may be produced from the site.

Staff has reviewed the proposed PD development plan and finds it meets all technical requirements of the PD District and the Unified Development Code, with the exception of the requested design adjustments for parking and screening and landscaping.

Staff recommendation is approval of the requested rezoning and accompanying development plan.

MacMann asked if the current technology was limited to 12 feet in height and a certain number of panels. Staff indicated that was correct, and that if technology changed and required higher or more panels, a change in the PD plan would be required. Staff added that if fewer panels would be required, it would only be a minor amendment and that could be achieved administratively at the discretion of the director. We always circulate such changes, so it could potentially have to receive additional approval by the council. It is always reviewed internally. The goal is to make sure it does not result in additional significant impact. The entire site will be disturbed during construction then reestablished, so the entire site under the panels becomes a BMP and a separate agreement for this will be executed.

Staff further explained that additional staff were available to answer questions.

Toohey asked if staff was OK with reducing the buffering requirement because the applicant did not budget for this? Staff indicated that they made that determination because initially the city had determined that they were a public utility, and later changed that designation to a private utility, changing the requirements for the project.

The public hearing was opened.

The first speaker represented the applicant and indicated that he was a project developer with offices in Chicago. He complimented the staff for their report. He then introduced other people in his team including an engineer, an appraiser and a managing partner from a law firm. He indicated that in most jurisdictions they are a special use district. They may be considered to be industrial here, but this is not truly an intensive industrial use. We believe solar technology is passive and beneficial.

MacMann asked how long they have been in business. The speaker indicated that they were incorporated in 2014, but the founders have more experience than that and they currently operate 230 solar sites nationwide. MacMann asked about other concerns they have had in other projects, and the speaker indicated that they have had some questions from EPA, but nothing here. This is new to this area and they understand the learning curve. Rushing asked if the panels emit any radiation. The speaker indicated that they absorb energy and there is no radiation reflected from the site. The energy connection lines are underground until they meet the utility. Burns asked if there were any exhibits that show the operation of the panels as they operate. The speaker showed a project in Indiana that is about half the size of the proposal.

Toohey asked if the budget was so tight that they could not afford to plant trees. The speaker indicated that the budget was tight. Toohey asked if they could not afford \$6 to \$10,000 additional for screening. The speaker indicated that he believed solar farms should be celebrated. They did not expect the costs of going through this process or the cost of additional screening and buffering. MacMann followed up asking about the designation between a public and private utility. The speaker indicated that that determination was made after the bid process had occurred, so they did not expect additional costs and requirements.

The next speaker indicated that he owned land to the south of this site. He believed that the original submission did not address all aspects of this proposal and believes that the runoff aspects of this project are not well defined. He does not believe that tonight's presentation added to the clarity of the proposal. He does not understand how runoff water will be addressed. He believes that the city has set themselves up as the runoff cops of this site and wants to make sure that runoff is mitigated, even if the city or the applicant eventually has to absorb those costs. The city is taking on a lot of liability. In 25 years, there will be more development here. He believes that in future years the original proposal will be cited, but there will be no oversight or enforcement of decisions made years before and this discussion could be forgotten. Something needs to be revised here, and I think there should be a little more science presented here. When they clear that land, it will create new runoff patterns. Let's dot the I's and cross the T's. I like a lot about this, but I don't have all the answers. Use caution.

Stanton asked what would make this a win-win? The speaker indicated that maybe the street tree requirement could be absorbed by the city, but the developer should be held to the screening requirements. They should be involved in this and they should be protective of stormwater runoff on the south and east side of the property. So, make that commitment now. I have not seen the science. I think there should be a swale or other kind of protection on that side of the property. There are a lot of tributaries. I want the city and the applicant to articulate what will be done.

No further speakers appeared and the public hearing was closed.

Stanton indicated that he did not want to beat up on the applicant, but he thought the applicant should have been more aware of the code requirements before making this application. The chair indicated that there have been changing definitions, and that some of these requirements and costs have snowballed. MacMann indicated that he did not want to hold the applicant responsible because the city changed their minds on the definition of this project regarding a private or public energy provider. MacMann indicated he was not happy with the process. He indicated that the city tries to follow its own rules even if they don't have to. He appreciates the applicant's dilemma. He wants to see all the buffers and trees. Burns indicated that she believed that the buffering should occur since it was an area that was agricultural and somewhat dotted with residential. She believed that the original buffering should be required. The chair asked if this was well-defined and if there are two standards. Staff indicated that there would be some buffering required along roads, and that the city would assume that responsibility along roads that have not yet been built. Staff indicated that the applicant has offered additional setbacks without additional buffer landscaping, but would also build a privacy fence at a greater setback to maintain the trees that do exist, which offsets the stated requirements. That addresses both the front and rear setbacks. They are using privacy fencing in some areas and chain link in other areas that do not face current development.

Toohey asked where the city would add trees? Is it just on the west side or along I-70? If the city were to redevelop this site, they would add trees in some areas on the west side, but not along I-70 because that is under MoDOT responsibility, and they would not have to do it. Toohey asked about wood fencing that has a certain shelf-life. Who would replace the fence? The staff indicated that they might be responsible for part of it. Toohey thought this proposal did not address the desire to make this an attractive site and that wood fencing and a solar farm are as attractive as the applicant believes.

Stanton believed that this project provides more energy and that he thinks some positive aspects of this have been ignored and we need to allow the solar energy farm to work without the shade from trees and other impediments. He thinks solar panels are pretty sexy. MacMann thought the buffering needs

to be addressed, but he may not want to extract money from the applicant at this point. Toohy believed that the city is not consistent in addressing these concerns. Just because the applicant has not budgeted for trees does not mean it is justified and he thinks the city would enforce this harder against other applicants. Other applicants have been turned away or enforced against previously.

Staff indicated that the applicant was willing to offset some impacts by offering more setback than screening. Staff indicated that the applicant is proposing at least 5 additional feet of buffering, but asking for less screening. The applicant is proposing to save more trees, building a fence and moving setbacks back, but there are a few places where the establishment of screening will actually result in the demolition of trees. The proposal actually does a better job of screening and buffering than the rules require. Screening on the inside of the fence does not make sense. Staff indicated that the ultimate solution may not be convenient to the applicant. We are looking for a practical solution. This is a utility and we did not anticipate this scenario. Staff also indicated that if they had not suggested going to the Planned application, this would have simply come forward without discussion. Staff further indicated that there had been debates over whether or not this was a public or private utility, and that the new code did not contemplate this scenario. It did not include solar, and it could not have known about how this type of facility could be built under the new rules. It should also be noted that the RFP did not have to be located within the city limits, so we didn't really talk about the zoning aspects of this project.

MacMann asked to go back to the slide presentation and look at the layout. He then proposed that he would like to propose acceptance of this general proposal, but would like to approve this without the street tree exemption on the outer road. Maybe council will override this, but they can if they want. There is a CATSO street planned here, but it does not exist today. When that street comes in, the city should pay for the street trees, but the rest of this should be accepted. The applicant is dedicating right-of-way. In the future, the city will install complete road standards.

**MacMann made a motion to approve the plan except for the waiver of street trees along I-70. Stanton seconded the motion.**

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

#### **PUBLIC COMMENTS**

**(None.)**

#### **STAFF COMMENTS**

(Action: At the next commission worksession, they will talk about land use maps and how those are determined. There are three items that will be on the next agenda:

**Downzoning of multiple properties in the West Central Columbia area.**

**Landmark Hospital at Discovery Park**

**Business loop 70 Corridor Plan – Subplan review.**

#### **COMMISSIONER COMMENTS**

MacMann asked for this body to ask for review of future alternative energy proposals by the appropriate commissions or boards before they come to the P&Z Commission.

**NEXT MEETING DATE – September 6, 2018**

**ADJOURNMENT**  
**(Time: 8:16 PM)**

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