



Columbia Planning & Zoning Commission Meeting Recap

Council Chambers, Columbia City Hall
7:00 PM Thursday, December 6, 2018

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

APPROVAL OF AGENDA (Agenda approved as submitted.)

APPROVAL OF MINUTES ([October 18, 2018](#) meeting minutes approved as submitted.)

TABLING REQUESTS

Case # 20-2019

A request by Civil & Environmental Consultants, Inc. CEC (agent), on behalf of Missouri Alpha of Phi Kappa Psi, a Missouri Corporation (owner), for a one-lot final minor subdivision plat to be known as "Missouri Alpha of Phi Kappa Psi Subdivision" to allow for a building addition to the existing structure. The 3.96-acre property is addressed 809 S. Providence and is zoned R-2 (two family dwelling) and RMF (multiple family dwelling).

(A request to table this item to the December 20, 2018 Planning Commission meeting has been received).

(Action: The engineers for the project have requested to table this item on behalf of their client. A design adjustment was identified late in the review and staff needs time to adequately advertise this change.

The request to table was agreed to unanimously, 7 - 0.)

SUBDIVISIONS

Case # 05-2019

A request by Crockett Engineering (agent) on behalf of Columbia Public School District (owner), for approval of a one-lot replat to be known as "Jefferson Middle School, Plat No. 1"; and design adjustment from Section 29-5.1(g)(4) of the UDC pertaining to dedication of utility easements. The subject 6.76-acre property is located on the north side of Rogers Street between Fifth and Eighth Streets and is addressed 713 Rogers Street. The property is zoned R-MF (multiple-family dwelling), M-N (mixed use neighborhood) and FP-O (flood plain overlay) districts.

(Action: DISCUSSION The applicant is seeking approval to replat Lots 38 through 47 and Public School Grounds of Guitar's Addition to Columbia into a single lot. The property is zoned R-MF and M-N, with FP-O on the western portion of the property, and is presently improved with Jefferson Middle School, parking areas, accessory buildings, and a track. The school is a permitted use, and at this time, no

redevelopment or building plans have been submitted by the School District. The track is on the western part of the site, which is predominantly turf grass and is within the FP-O; the track is permitted in the FP-O zone. The applicant is also seeking a design adjustment for a partial waiver of the required dedication of a ten (10) foot utility easement along Hickman Avenue. The utility easement is provided in full except at the location of the existing staircase; at that point the utility easement is requested to be reduced to two (2) feet.

At this time, without plans for redevelopment or expansion of existing site improvements, the requested replat has been found to be consistent with criteria of Section 29-5.2(d)(4).

After considering the Utilities staff's review of the requested design adjustment, the existing site conditions and the built environment as well as the information submitted by the applicant, staff supports the approval of the utility easement design adjustment.

Strodtman asked about the easement and asked if this was a new easement dedication? Staff indicated that it was new. Staff indicated that the design adjustment is subject to a public hearing although the plat action is not. The public hearing was opened.

An engineer appeared on behalf of the project and offered to answer questions relating to the proposal and advised the commission that an existing building would encroach on the easement. It was indicated that the existing construction be given consideration and that no easement be placed on the footprint or too close to the footprint of the existing structure. Strodtman asked if the easement was being granted up to the line shown. The engineer indicated that that was correct and that the shortest deviation might be 3 feet.

A representative of the North Central Neighborhood Association and noted that there is a stormwater improvement project located along Hickman Avenue and asked if this action would affect that? Staff said that if this is a CIP project, as stated, then this will not affect any plans on that projects. He did indicate that if site improvements were suggested in the future, then stormwater standards will need to be met. The speaker wanted to know what the neighborhood should do. Staff said to continue to coordinate with the Planning Department, but this action is not a part of that activity.

The next speaker asked why this utility easement was being granted now. She thinks that somebody really knows what is going to happen there and wanted to know what it is. She gave her address, but said that city council doesn't make you give your address. Staff said that the reason this was being done now is that in the old days some of the easement grants were not required. Because the school was asking for a replat, it triggered the contemporary requirements in case some redevelopment would occur. Loe stated that this has come forward at this time to make it compliant. The speaker said it was strange that this was coming up now if they didn't have some idea about what was going to happen in the future. So, the speaker is still asking what are they THINKING about doing? Staff said that they know of no plans for redevelopment. The staff indicated that there was a ballot initiative that involved this property, but the staff does not know exactly what might happen in the future. The speaker asked how any future change might affect the community? Staff said they could not respond. The speaker did not like that and indicated that she will oppose this because she thinks they are not telling the community the truth. The city is trying to get something over on us. Strodtman suggested that the speaker ask the public schools what they are planning, since they are the applicant. The city is simply trying to protect the city by obtaining easements now, so we don't have to buy them in the future. He indicated that he is offended by the comment and that he is not trying to hide anything.

MacMann asked if corner truncations were required? Staff said that is true. No further public comment was received.

The motion to approve both the replat and the design adjustment passed unanimously.)

Case # 08-2019

A request by Crockett Engineering (agent) on behalf of Quaker Manufacturing, LLC (owner) for approval of a one-lot final minor plat of IG (Industrial) zoned property to be known as Paris Road Park Plat No. 1. The 14.14-acre subject site is located at 4501 Paris Road.

(Action: The applicant is seeking approval of a final plat for previously unplatted property along Paris Road into one total lot. This was triggered by the company submitting a plan for new construction. No additional right of way is required, and the site is currently served by utilities. Sidewalks will be required along Paris Rd. The subject property is currently improved with an existing industrial facility along with off-street parking. The existing facilities are proposed to be expanded and the plat will confer "legal lot" status upon the property which has only been previously surveyed.

The site includes a required tree preservation easement that will be granted over the existing climax forest on the southwest portion of the site. The easement will need to be executed and recorded as well as the plat will need to be updated to include the recording information, prior to it being approved by City Council.

Staff recommends approval of the final plat for Paris Road Park Plat No. 1.

MacMann had a technical question. Do current stormwater regulations apply to this property since it was not platted in the past? Staff indicated that post development runoff cannot be higher than its undeveloped state. That will apply here and there are two different ways to approach this which is laid out in an attached flow chart. In order to get a building permit, the land will have to be brought into compliance even if that requirement is outside the UDC regulations. The engineer may be able to answer that question. The public hearing was opened.

The engineer appeared on behalf of the project and indicated that there will be a large redevelopment on the site. He stated that they will address the stormwater issues and that this action is a straightforward platting action.

There were no further speakers.

A motion to approve the request was approved unanimously by the commissioners present.)

PUBLIC HEARINGS

Case # 26-2019

A request by A Civil Group (agent), on behalf of Bedrock Enterprises (owners), seeking a major amendment to the existing, "Spring Creek Phase II PD Plan." The property is located roughly 600 feet east of the intersection of Vawter School Road and Scott Boulevard. The purpose of this major amendment is to amend the approved statement of intent to include veterinary hospitals as a permitted use.

(Action: The applicant is seeking a major amendment to the existing Spring Creek Phase II PD Plan, to permit a veterinary hospital to be included in the Statement of Intent (SOI) governing uses on the property. The property was annexed into the City as part of a larger tract in 1998, zoned C-P, and permitted to be improved with all uses within the C-1 district with the addition of service stations. At the time of approval, veterinary hospitals were considered a conditional use within the C-1 district and were

not included as a permissible use for the site as it was not specifically called out in the approved SOI approved concurrently with the Spring Creek C-P Plan in August 2007. Given these factors, a major amendment to the planned district is now necessary. The proposed veterinary hospital would be located in the east end of the proposed building, nearest the residential properties to the east. The original zoning ordinance included a requirement for a 50-foot vegetative buffer and tree preservation area between the uses on the subject property and the homes to the east. This buffer is depicted on the approved PD plan and remains intact.

Additionally, the applicant intends for all functions of the animal hospital to be within the enclosure of the building. No outdoor facilities will be constructed on the property, including but not limited to runs, pens, enclosures, and exercise yards. Some outdoor, leashed walking of animals may occur on the subject property to the north and east of the building.

Given the limited outdoor activity proposed by the applicant, in addition to the existing 50-foot buffer and tree preservation area, staff supports the proposed revision to the statement of intent.

Strodtman asked about how the city amends old plans? Staff said any major changes require a plan amendment, and that could include the installation of a chain link fence. Staff said yes, it may need to continue to come back every time a change was made.

The public comment was opened and an engineer appeared on behalf of the applicant. He stated that someone was interested in a veterinary clinic. They just didn't have underlying authority to agree without asking for this change. Rushing asked if the lease would restrict the hospital from using the area as a boarding facility. The engineer indicated that that was true.

The next speaker stated that 50 feet is not very far away. He is speaking on behalf neighbors. He wants to know about how animal waste will be handled and he is asking that it be specifically forbidden that in the future no boarding could be allowed. Burns asked if the speaker had talked to the applicant about buffering. He said that the intervening area is pretty steep so there is not a lot of room for a lot of plantings. One of the reasons they bought their property there was because he thought it would be difficult for that property to ever be developed at all – and now we want to make sure this doesn't get out of hand. He is not against this, but wanted to know if this was a small animal clinic or large animal clinic. Staff said the definition of a veterinary clinic defines the kinds of animals that can be treated but does not define the size of animals, so some large animals would be allowed under the definition and per the code requirements. The Planned Statement of Intent should govern this, but it would be difficult for staff to enforce this from the point of view of observation. He added that outdoor kenneling is allowed in some instances, but when it is too close to residential property there is a rule that requires multiple fencing and buffering of up to 200 feet from any outside runs. Other impervious surface rules would also apply. The speaker asked again if in the future they could ask to change this to a kennel? Staff said they could, but that they would have to meet different standards and they are not asking for that now. He asked again, how will waste be handled? Staff said that is not handled through the zoning process, but that the health department would get involved if that ever became a problem. ANOTHER STAFF MEMBER INDICATED THAT THE APPLICANT HAS SAID THAT THEY WILL ADDRESS WASTE AS IT HAPPENS.

No further comment was received.

A motion to approve was made and approved unanimously.)

Case # 18-182

A request by Luebbert Engineering (agent) on behalf of D&D Investments of Columbia, LLC for approval of a major amendment to the University Chrysler PD Plan. The original development plan (PD Plan) for the site was approved in 1972 and revised in 1975-76 and 1983. The purpose of the PD Plan amendment is to revise to the buffer screening detail on the southern property boundary. The 4.63-acre site is zoned PD (Planned Development) and is addressed 1200 I-70 Drive Southwest.

(This item was tabled at the October 4, 2018 Planning and Zoning Commission meeting).

(Action: The applicant is seeking approval of a Planned Development Plan (PD Plan) amendment to provide an 8-foot wood screening fence and ten (10) foot landscape buffer on the applicant's side of the property line of University Subaru, located at 1200 I-70 Drive Southwest (note: the screening detail shows a twelve foot buffer area to account for the area that will be occupied upon plant maturity). The amendment, if approved, would apply to the required landscaped that is located within the southern 12 feet of Lot 1 and western 97 feet of Lot 2 of Huff Subdivision for which landscaping improvements were identified on the 1972 C-P Plan and its subsequent amendments.

The intent of the PD Plan amendment is to replace and relocate a fence which was recently removed, and to bring all screening elements up to the current standards of the UDC. The new fence, as proposed, will be moved approximately ten feet south to the property line, allowing alignment with the existing fence and landscaping along the remainder of the southern property line (the remainder of Lot 2 and Lot 3 of the Huff Subdivision), which is presently improved with an eight-foot wooden fence and landscape buffer within an existing 10-foot utility easement, screening which was required as part of the University Chrysler Revised C-P Plan approved in 2003 for the body shop expansion.

The University Subaru (formally University Chrysler) property was zoned C-P (now PD) in 1972 and has been the subject of development plans and plan amendments to allow for revisions and expansions in 1973, 1976, 1983, 2002 and 2003. While not included in the 1972 plan, the removed fence in question was clearly identified as existing on the 1983 development plan and subsequent plans amendments. Installation of the fence may have occurred in response to staff's concerns regarding screening concerns made during the 1976 plan amendment proceedings and expansion of the C-P district. The site is presently not in compliance with the 1972 plan's "Proposed Huff Subdivision Details of Landscaping" for the southern boundary of the site, and there is no evidence this landscape detail has ever been formally waived. This PD Plan amendment will bring the site into compliance for required screening per the UDC.

Section 29-4.4(e)(3) of the UDC indicates that screening "shall be located along the property line of the applicant's lot and shall not extend into the established setback of the adjoining lot". The proposed location of the required screening of the applicant's parcel from the adjoining lots complies with this provision. It should be noted that the area in which the required screening and buffering will be placed is located within an existing 10-foot utility easement. The applicant is allowed to place the required fence and landscape buffer within the utility easement and is aware should utility maintenance disrupt the landscaping or the fence they will be responsible for reinstallation of the required screening and plant materials. The applicant has worked with Utilities staff to choose dwarf tree varieties which will mature at less than 25 feet in height to avoid conflicts with existing overhead power lines.

Approval of the amendment will restore security and privacy to the adjacent residential properties affected by the removal of the existing fence. Furthermore, the amendment will provide a more effective screening than that required per the 1972 C-P Plan as the plant and screening requirements of the current UDC are more significant than those previously required to be installed to separate the

adjoining properties. Based on these findings staff believes the submitted amendment is appropriate and supports its approval.

MacMann noted that at the last meeting this was tabled because there was supposed to be a legal hearing – and that has not yet happened. So, why are we doing this now? I don't think we met the original criteria. Rushing joined Mr. MacMann's statement and thought it was clear that the legal hearing needs to happen first. I do not see why we don't continue this until December 20 since that would be past the December 13 scheduled hearing. Burns said she would like to hear from neighbors who DID show up to speak to see if there are any extenuating circumstances.

The hearing was opened and an attorney appeared on behalf of the client. He stated that there was a scheduled date for one of the lawsuits, but there are a couple of lawsuits in play. There is still more legal action in play. To that issue, this will not be decided by the 20th of December. He suggested that instead of waiting for that legal decision, the commission should make a decision on the land use issues – not the land ownership issues. That would make your work impossible. He stated that this decision will have no impact on the legal dispute, so that should not be part of what is being considered by the commission. His client is ready to build a fence right now. This will still have to go to city council, and they could decide not to allow this while it is the subject of a legal dispute. Last time, we said OK to tabling, but we think this can go forward.

Rushing said she understood that the fence was removed in the first place without any communications with the neighbors. The attorney said that was not correct and that there was discussion of that in the past, but not immediately before the fence was taken out. He also indicated that there only two neighbors involved in litigation and that the rest of the neighbors would rather see a new fence installed. MacMann disagreed with the attorney's suggestion that other neighbors would prefer to see this fence built. Loe asked if the court has indicated that the fence cannot be built? The attorney said there is an injunction about vegetation removal applicable to one property. So, one property would not have a fence. Loe asked if there were discussions about dilapidated fence conditions with the neighbors. The attorney said he did not know if every single neighbor got involved, but they did receive notice and a bunch of them were involved on more than one occasion.

A neighbor appeared and indicated that he did not believe that the attorney had portrayed the situation correctly. The speaker said the court said they cannot set foot on the neighbor's property at all. He also said they heard about the fact that the fence was going to be torn down through the grapevine – not by direct contact. Notification was poor. Please note that the fence was knocked down by the applicant, not us, so if there is any injury it came from them, not us. By the way, when this was tabled earlier, the attorney for the applicant said he was perfectly fine with tabling this until the legal case was determined.

Another speaker appeared and stated that he was a neighbor. He would like to say that he would like the commission to table this until the lawsuits are worked out.

An additional speaker appeared and thinks that the lawyer who represented the applicant was out of line and she is willing to wait two years until another fence is built. We will lose trees and we can't get those back if it all happens now. By the way, I was never notified and I was never invited to a meeting.

No further speakers appeared.

Rushing asked how to handle tabling to a date certain since we would not know when the legal part of this will be determined. Staff said that the longer this goes on, we have obligations to advertise again. If they get denied at the council level, we can't let this come forward again for 12 months. You could also ask if the applicant would simply withdraw this at this time and wait until the legal part was worked out. If you withdraw, you can come back at any time. If you get denied, you have a 12-month waiting period unless it is a substantially different concept. December 20 would probably not be a good date to table to. Late January or February might be better. This might call for an Anthony Stanton approach. MacMann encouraged the applicant to withdraw and stated that we would not be artificially tied to litigation. If we would like to see this determined by the court or by agreement between the parties, Rushing thought it should be withdrawn or voted down.

Strodtman was struggling with his role as a commissioner. He thinks we are allowing an applicant to install a conforming fence. I can't remember a time when the commission was handcuffed by the outcome of some legal dispute. That is outside of our responsibilities. Loe agreed that what we are deciding is a zoning case. However, I see why some people want the legal part worked out first. I am particularly bothered by the idea of building a fence across a property that has an injunction. Legal staff said the commission is not determining the legal outcome of any case. It has no determination on the outcome of that case and we are ruling on a point of building a fence and nothing more.

Stanton thought that a win-win would be for the parties to step back and figure this out. When I see speed, I want to see why. Rushing indicated that she failed to see why time was of the essence. She believes that we have time. I have looked at what was done. As far I can tell, we can wait until the issue of ownership is resolved. Burns also indicated that she is not in a rush about this and she does not want to get this wrong. We need to look at what people say and that helps me form my opinion. MacMann added that there are some trees involved and if they are gone, they may get paid for it, but that will be too late. MacMann does not want to make a wrong decision. Loe asked what the commission desired.

Staff said if you want to ask that question you have to reopen the hearing to ask the applicant's attorney what they would like to do. The attorney appeared on behalf of the applicant. The commission asked him if he would be willing to withdraw their application. The attorney said he thought that would set a horrible precedent and that the lawsuit should have no bearing on this decision. We will not withdraw or table at this point. The rush to get this done is to install the fence that is required for the protection of the other neighbors who are not involved in a lawsuit. Right now, we don't even have the parties straight in the lawsuit. Low indicated that if they don't withdraw, the commission will likely deny this.

Another speaker stated that this does not only include trees, but also properties that has been cared for by neighbors and that there is a dispute about who owns the land and that the fence was not dilapidated except in one part where some gravel had been deposited. If you deny this, they are out of luck for a year. Otherwise, they could just come back the next day.

One other speaker indicated that there were 6 neighbors that were affected by the removal of this fence, not 2 as the attorney stated. There are 4 people who were here last time but could not come tonight.

No further public testimony was forthcoming.

Stanton asked the attorney for the applicant if he needed more time to make a decision. He said he was not willing to withdraw.

Loe asked how to move forward. Staff suggested that an affirmative motion be made and then it should be voted up or down. MacMann moved to approve the motion so it could be debated. MacMann stated that he will vote no on the motion to approve. Strodman stated that he believes the commission is crossing a line that is none of their business and he does not believe this is correct. Stanton said he thinks we would set a precedent by NOT taking a stand on this. We are faced with this decision now and we have to make a decision. Stanton said he will vote no. Loe thought she agreed with Rushing and that we are being asked to make a vote on disputed land.

A vote was held. The motion FAILED 6 to 1 with Strodman casting the only affirmative vote.)

PUBLIC COMMENTS

(None.)

STAFF COMMENTS

The next meeting will feature several issues:

Subdivisions -

- Phi Kappa Psi Subdivision action (tabled at tonight's meeting)
- Westbury Village Subdivision and platting

Public Hearings -

- Waste water treatment plant - permanent zoning for a city-owned property that exists in the county
- Accessory Dwelling Unit text change and vote
- Public comment on the Short-Term Rental issue. (We will make a determination of when to schedule final hearing on that issue at the next meeting.)

The next P&Z worksession will continue to discuss Rock Quarry Road Scenic overlay; comprehensive plan and regular holiday meal. Please come early.

COMMISSIONER COMMENTS

(None.)

NEXT MEETING DATE - December 20, 2018 @ 7 pm

ADJOURNMENT

(Time: 9:00 PM)

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