



Columbia Planning & Zoning Commission Meeting Recap

Council Chambers, Columbia City Hall
7:00 PM Thursday, December 5, 2019

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

APPROVAL OF AGENDA (Agenda approved as submitted.)
APPROVAL OF MINUTES ([November 7, 2019](#) meeting minutes approved.)

WITHDRAWN ITEMS

Case # 209-2019

A request by Primus Companies (agent), on behalf of Dr. Joseph Rich (applicant) of Family Focus Eyecare, to rezone property comprised of three lots addressed as 3, 7, and 101 W. Briarwood Lane from R-1 (One-family Dwelling) to M-OF (Mixed-use Office). The subject 0.67-acre site is located at the southeast corner of Stadium Boulevard and West Broadway.

(This item was tabled at the October 10, 2019 Planning Commission meeting. The applicant is requesting that this item be WITHDRAWN from further consideration).

(Action: The following is an excerpt from the letter requesting withdrawal of this issue:

"We are planning to withdraw our re-zoning application for the three lots on West Briarwood. The main reasoning behind this is that it has become cost prohibitive. The setback requirements on 3 sides of the building made for an inefficient site plan, as well as physical building. I believe that this is an excellent spot for future use as we were intending, small practice medical. Something that would be a service to the neighbors and would also not be a hinderance in terms of changing their lifestyle. Many neighbors felt the same based on correspondence, however most all of them wanted to be involved in having their lots purchased. Perhaps something on a larger scale would work, should there be the opportunity to get the traffic situation corrected. I think an extension of Longfellow would do that and allow for all the commercial to be north of that road. However, at this time, we do not have the economies of scale to make that happen."

The item was withdrawn without further action.)

SUBDIVISIONS AND PUBLIC HEARINGS

Case # 12-2020

A request by A Civil Group (agent) on behalf of Columbia Housing Authority (CHA) (owner) for approval of a two-lot final plat of R-MF (Multiple-family Dwelling) zoned property to combine 14 existing lots, constituting a replat of Lots 8-19 of Crouch's Addition and Lot 1 & 6 of Bergen's Addition, to be known as

Providence Walkway Plat 1, and an associated design adjustments to Sections 29-5.1(g), 29-5.1(d), 29-5.1(f)(3) and 29-5.1(c), of the Unified Development Code relating to additional right-of-way dedication, sidewalk construction, installation of street trees, and platting of a new lot line through an existing structure. The 3.68-acre property is located at the northwest corner of Providence Road and Park Avenue.

(Action: The applicant is seeking to consolidate multiple lots from previous subdivision into 2 larger lots in order to better facilitate the redevelopment of the site. Per the applicant, the replatting is sought to accommodate the redevelopment of the site, which will include the demolition of the existing dwellings on Lot 101 and their reconstruction. The existing site is made up of all or portions of 14 lots, some of which conflict with existing building locations. Per the UDC, structures may not be constructed over lot lines so the consolidation is necessary for the redevelopment of the site. The future development layout, per the applicant, will be similar to the current site. Proposed Lot 101 would contain the reconstructed residential dwellings, existing CHA administrative offices, and existing laundry facilities. Lot 102 includes the JW "Blind" Boone Community Center.

In general, the replat will consolidate the existing lots into two lots that will allow for new construction in the future. The combination of the lots will not create a development that is out of character with the surrounding residentially zoned property. It would also be consistent with the building form that is currently on the site. Staff finds that the requested replat will not eliminate any restrictions that have been relied upon by neighbors, is properly served by existing utilities, and will not be detrimental to the neighborhood. As of this report no demolition permits have been requested and plans for the new structures have not been submitted.

The applicant is also requesting four design adjustments to waive additional right-of-way dedication, sidewalk construction, installation of street trees, and permission to allow a new lot line through an existing structure.

Right of Way Dedication Design Adjustment - Platting the property requires additional right of way dedication along Providence Road as well as dedication of standard utility easements. A new utility easement is being granted over the existing sanitary line within the site. The right of way dedication along Providence Road would range from approximately an additional 17 feet at the north portion of the property, down to about 12 additional feet at the south edge of the property; however, the applicant has requested such dedication requirements be reduced via a design adjustment. The site is currently improved with 64 dwelling units; however, due to the required right of way dedication the permissible number of reconstructed dwelling units would be reduced to 59. This reduction is due to the parcel's R-MF zoning which requires a minimum of 2,500 square feet of lot area per dwelling unit.

The applicant has submitted an exhibit that proposes to shift the MoDOT established centerline of Providence Road eastward. When additional right of way dedication is required it is based on the location of the defined roadway centerline. If approved, the shift would reduce required dedication upon the subject property. At this time, the City's Public Works Department does NOT support the shift in the centerline, and does not support the waiver of right of way dedication for the following reasons:

1. Would result in acquisition of less right of way than is required for streets identified as a major roadway (i.e., major arterial) and would be inconsistent with the Major Roadway Plan;
2. The design adjustment as proposed would require that the property owners on the east side of the street (City of Columbia, Columbia Public Schools) to dedicate more right of way than what would currently be required, which could be considered an adverse impact. Furthermore, as redevelopment occurs in this area and within the downtown core, additional traffic will be

generated, which may increase the need for better transportation infrastructure for vehicles, including public transit, bikes, and pedestrians. Not having adequate right of way to make future improvements may have an adverse impact on residents traveling through this area.

3. Obtaining the additional right of way will allow the City to make future improvements to the roadway that may address issues of circulation and safety. While there are no immediate plans to improve the roadway, obtaining right of way at the time of platting ensures that the right of way is in place when future improvements are warranted and eliminates the possibility that structures may be constructed within the right of way that may need to be acquired or potentially relocated increasing overall project costs.

Exemption From Building Some Sidewalks - Per the UDC Section 29-5.1(d)(2)(i), sidewalks are required to be constructed on lots within this replat. There is an approximately 180-foot length of Lot 101 along Switzler Street that currently does not have sidewalks. The area in question extends from the northwest corner of the lot (at the intersection of Switzler and Trinity to the existing drive entrance for the site along Switzler. The applicants are requesting to fully waive the required sidewalk for this area. Staff does not support this exemption because it will negatively impact public safety and circulation through the area; is no different than other developments that must deal with varying grades on a lot; and the building of sidewalks should take precedence over the preservation of vegetation in the area.

Street Tree Design Adjustment - The applicant is requesting a complete waiver from the requirement to plant street trees every 40 feet along the rights of way to which the subject property has frontage upon. The applicant has stated that they may leave many of the trees currently existing on the site, but would like the flexibility to remove certain trees during the reconstruction of structures without the requirement to replace them.

As a note, the site is considered compliant with the current street tree requirements, so no additional trees would be required. As of this report's preparation, no building or site plans have been submitted for this site and the applicant was not able to identify specific trees that may need to be removed. Given the uncertainty of the impact that redevelopment may create staff believes this request is premature. If the design adjustment were to be approved as currently written, the builder would be able to remove ALL of the trees without replacing ANY of them. Street trees are a requirement for other developments and the waiver request does not appear to be addressing a unique site or design feature. Staff therefore opposes this request.

Building Across A Lot Line Design Adjustment - Per the UDC Section 29-5.1(f)(3), no structure may be constructed across a lot line. A new lot line is being proposed between proposed Lot 101 and 102 that divides the existing parking lot, which by UDC definition is considered a structure; therefore, is not permitted. Upon review of the design adjustment worksheet, staff concurs with the applicant's findings and supports the request. The requested location of the new lot line (approximately down the center of the parking lot drive aisle) is reasonably located and does not arbitrarily bisect parking spaces. Allowing a lot line over the parking lot does not appear to be detrimental to the site, or in conflict with the standards for granting a design adjustment.

Overall, the proposed final plat has been reviewed by staff and aside from the requested design adjustment and some minor technical corrections it meets all requirements of the Unified Development Code. Staff recommends:

1. **Denial** of the design adjustment to Section 29-5.1(c)(4) and Appendix A (right-of-way), 29-5.1(d) (sidewalks), and 29-5.1(g)(3) (street trees).

2. **Approval** of the design adjustment for 29-5.1(f)(3) (Lot lines over structures).
3. **Denial of the final plat for Providence Walkway Plat 1** as it is not consistent with Section 29-5.1(c)(4) and Appendix A (right-of-way), 29-5.1(d) (sidewalks), and 29-5.1(g)(3) (street trees).

Alternatively, if the Commission supports the requested design adjustments the plat could be recommended for approval, subject to minor technical corrections.

Russell asked how this will be voted on and asked if this would require three separate motions. Staff said no. One motion could suffice. Rushing asked about a lot line that appeared to bisect a covered walkway. Staff acknowledged the existence of the lot line cited, but this action would create a lot line in a different place.

MacMann asked if MoDOT has an opinion about this action. Staff indicated that MoDOT does not have a strong opinion on this action. They have indicated that if they need additional room for expansion in the future they will be willing to purchase that right of way. MacMann asked if the schools had been consulted? Staff indicated that there had been no specific outreach to Columbia Public Schools. Loe asked about the status of private vs. public walkways. Staff indicated that the areas cited were private.

The public hearing was opened.

The first speaker was an engineer representing the applicant. He asked for additional time to explain the situation. First, he noted that the request to expand the right of way into the school property would not change anything because that property has already been dedicated. He then noted that there is already existing right of way in front of Douglas High School and if this were not granted it would make the existing structures non-conforming. The only part of the land that would be required then, is owned by the city and they could grant such permission. MoDOT has indicated that they have no plans for expansion, so this may be too harsh an option. To encourage walkable roads along Providence Road, which is already 5 lanes, it would violate that concept by expanding the road at this place. He noted that it is not feasible to meet all of the constrictions of the rules in this particular urban environment.

He noted that they are not creating additional traffic. He noted that there are options in the code that seem to indicate that a variance should not even be required, but they are submitting this to comply with other regulations.

The chair indicated that the engineer had already exceeded his time limit and asked him to speed up. The engineer said that the request to not build sidewalks does not abrogate their responsibilities, they simply prefer to build them in different areas. On street trees, trees already exist, and they want to maintain that, but there will be some places where they will need to take out a tree. He thought that the city should trust the Housing Authority.

Carroll asked about the sidewalk exemption. The speaker said there were grade issues, placement next to parking areas and general placement. The speaker said that these are all private walkways currently, but there are no sidewalk police and anyone can walk on them.

MacMann said that in Harlem there are main streets with traffic that flow past six-story residential buildings. He asked if there could be a better suggestion for the realignment of the right of way. The speaker said he thought this proposal addressed this specifically. He noted that the city will never take over this road. It is a MoDOT road. If it needs to be widened, MoDOT will deal with that and it

will never come back on the city. The speaker then said he thought the city should take a sectionalized approach to applying rules on MoDOT roads. MacMann said that might be fine in the future, but it is not what the rules are currently. Loe stated that since the sidewalks that exist are currently private, and there is no resolution to that question right now, this request may be premature.

The next speaker represented the Columbia Housing Authority. He noted that there is access to the laundry facility. Loe said it did not meet the standards of federal laws and that access could not run down a driveway. The speaker said that funding for this project did not receive funding this year, but could in the future. They are bringing this forward to prepare for rebuilding in this area. Low income housing tax credits are a positive program, and they want to make this a walkable area. We have pursued that strategy in our earlier efforts. We did not get funded this year because of our high credit request. We have to limit our costs. Under the current code, the costs to rebuild or renovate could result in these units becoming unaffordable. He noted that there are several projects involved in this general area. They are good improvements to the area and are energy efficient. It's a good layout with lots of green space. He showed a layout of the proposal.

Stanton noted that he is a neighbor and has a big problem with this project. He does not think that getting closer to Providence is a good thing. The speaker said that they are not trying to force the homes closer to the major street. They are trying to maintain that buffer and shift the right of way dedication to the other side of the street. He noted that this setback can be achieved as Providence Road goes north.

Burns asked why they did not receive funding, other than cost. The speaker noted that Bryant Walkway had termite damage structure and they had \$300,000 in unanticipated costs to abate that and it got really expensive. This affected the new project because funds had been spent, so they reduced the scope of the new project. That didn't work. The funds were allocated to other cities in Missouri. We still don't know exactly why we were not funded. Burns asked if they could discuss if the right of way costs were changed, would that change the credit status? The speaker said that Section 8 units in this area do have contracts, and that guarantees income, but they do have to replace units one-for-one and they will be more expensive than the current units.

The next speaker pointed out that in Appendix A, there is a provision that would allow for this to go forward without the construction of additional sidewalks since the existing sidewalks are private and may not be subject to the rules regarding redevelopment. They disagree with the staff analysis. Our goal is to provide affordable housing. However, in the analysis of this project, the applicant believed that Providence Road would be considered to be a side street due to the orientation of the buildings, but staff analysis did not agree. The speaker also showed slides that indicated there is sufficient existing right of way on the other side of the road to accommodate any future growth on the other side of the street. If you enforce the rule on this side, you will encroach on individual homes.

Stanton said that under old urban renewal rules, development created a cancer on this area. Be careful when you cite historical precedents since this community has already been wiped out by past projects. Loe asked about placement of street trees. The speaker noted that the existing trees are not currently in the right of way. If Providence Road were to be built out to 6 lanes, then those trees would go away anyway. However, there are no plans to do that.

Staff weighed in on the issue and said that the current street tree placement was adequate, but that if they were given this adjustment, they could eliminate ALL of the trees in theory since they would not be required to replace any removed trees. Staff further said that there are other protections, but they do

not favor granting this broad exemption. Staff said they have discussed the issue of expansion of major roadways in the downtown areas. They have talked about the fact that Providence Road borders the major downtown area is important. Expanding the road is not limited to creating additional driving lanes – the expansion could be bike lanes, pedways or other amenities.

Public comment was closed.

Stanton said he wanted to achieve a win-win. He is leaving this open. Is there any wiggle room to make this go forward? MacMann said he wanted to talk more about this first. He believed that Gephardt's exhibits were accurate. However, he noted that Rangeline, and major thoroughfares have accommodated local neighborhoods in the past. He said he could suggest some improvements, but waited to make those suggestions.

Burns said she understands the current situation and future expansions. She believes that this area could be made more attractive and safer. Stanton said he would like to shrink the project. A speaker said that they are required to replace existing housing. Stanton said it looked like there was green space. Staff said that if they complied, the buildings would need to be moved seven feet on one side and 3 feet on another side. Staff further said that buildings must be replaced on a one-to-one basis. Staff said the orientation of the buildings is the key, and they are not trying to eliminate any available affordable housing.

Staff is trying to protect adequate rights of way and the city cannot assume that they will not ever have responsibility for that road. We have required this in the past and this policy has extended all the way south to the Grasslands. If we don't require this now, we don't have the ability to get it in the future without cost and we do not want to play favorites with this project. We can accomplish the end goal within the rules.

Loe said she thought that the new buildings will not be built on exactly the same footprint and she does not want to eliminate open space. MacMann said he wanted to make some suggestions. He thinks there are problems with the local code and national policies. He struggles with taking land from CPS. He suggested rejecting this plat and rework the project. This project has no funding. Is there any reason that requires immediate action? Staff said they know of nothing that requires immediate action. Staff did note that there had been earlier requests regarding easement vacation, but this platting is only designed to make the future project more manageable. We don't have anything in the hopper that indicates this needs to be done now. He noted that the street tree issue that will be considered later could affect this, but he did not think this would be a significant issue. He thought that the right of way issue seemed to be the major sticking point.

Carroll asked the applicant to come forward again if that was permissible. The hearing was reopened.

The engineer appeared and indicated that they did not even want to replat this property, but they are forced to due to the building over lot line rules. Otherwise, all of this would be unnecessary. If we don't do this, we become non-conforming in the future. We are trying to be proactive to comply now. We were told that to be compliant, we had to bring the variances forward with the plat. We don't want to have to keep coming back for variances since we have limited funds to spend per each unit built.

The representative of the Housing Authority said this could increase costs by 4%. He said that just building houses is not the total picture. Improving sewer systems will be included in this project and we

have to include those costs. Carroll asked if this has to happen now? The speaker said no, band that there is a slim chance for funding this year, but if that is the case, we will have to do this again and then we will have an 18-month lead time to get this done. In the meantime, the footprint of these buildings could change.

Stanton said that there was a place that used to be the graveyard in that area. The speaker said that there also used to be a street there. He said he thought this was a good project generally, but asked if they couldn't make some accommodation? The speaker said he wanted to try to make this work, but to make the general changes suggested would make a lot of uses non-conforming. The Blind Boone Center would be negatively impacted. He would like to expand that, but if that building is non-conforming, he can't do it. If we build new, we have to replat – then we become subject to new rules. Rushing asked if they can't fit the new buildings into the new lots? The speaker said they can work with the new lots. Rushing asked if they can fit all of the new homes into the new lots? The speaker said that when the old buildings were built, they were all over the map. Rushing repeated her question. If you could only get the lot line variance, would you proceed? He said he might be able to give up the right of way request along Providence Road, but he does not want to give up the other requests. He would simply proceed to city council and ask for their guidance and approval. We will work with the schools to protect fencing and trail improvements already made.

The public comment period was closed for a second time.

Stanton indicated that he believed that the proposal should be denied and made a motion to deny both the replat and the affiliated design adjustments. Stanton, Loe, MacMann and Russell indicated that they want the additional housing, and generally like the project, but they are uncomfortable with passing this item as presented at this time. It may be premature. The motion was to deny.

The motion to deny passed unanimously, which means that the proposal failed and will be forwarded to the city council for consideration with a negative recommendation.)

(The commission took a brief recess at this point.)

PUBLIC HEARINGS

Case # 06-2020

A request by Van Matre Law Firm, P.C. (agent) on behalf of TKG St. Peters Shopping Center LLC (owner) for a conditional use permit (CUP) to allow a drive-up facility (often described as a drive-through) on approximately 1.13 acres of M-DT (Mixed use- Downtown) zoned property for a Raising Cane's Restaurant. The property is located southwest of the intersection of Providence Road and Locust Street and is addressed 201 S. Providence Road. Restaurants are a permitted use in the M-DT; drive-up facilities are a conditional, accessory use which requires a conditional use permit subject to the provisions of Chapter 29-6.4(m).

(Action: The applicant seeks approval of a conditional use permit (CUP) to allow a Raising Cane's Restaurant with a drive-up facility. While restaurants are a permitted use in the M-DT district, drive-up facilities are a conditional, accessory use (CA) requiring approval of a CUP by the City Council following review and recommendation by the Planning Commission.

The proposed restaurant is to be built on an approximately 1.13-acre portion of the vacant property located south of the Lucky's Market parking lot and north of the Custom Complete Automotive on the west side of Providence Road. The restaurant would occupy roughly 1/3 of the 3.26-acre lot platted in

2018 as part of the University Centre Subdivision final plat. There are presently no redevelopment plans or tenants identified for the remaining 2/3 of the lot. After advertisement by the city, staff indicated that there was considerable interest by the media, but no citizens had submitted comments on the project.

The restaurant is proposed to be a one-story, 3,316 square foot building with 25 parking spots. The front of the building would be oriented toward Providence Road with parking located on the north side of the building. Access to the site would be from the rear via a shared access driveway that connects to the Lucky's access driveway on the north to the parking lot/driveway access for Custom Complete Automotive on the south. Both northern and southern connection driveways access Providence Road. The subject restaurant site is not permitted to have direct driveway access to Providence Road, but the applicant would provide pedestrian connectivity via an ADA-accessible approach from the Providence Road sidewalk.

The M-DT district permits the improvement of a parcel with multiple structures without the necessity for further subdivision. Staff understands that the 1.13-acre development site for the restaurant is to remain under the ownership of TKG St. Peters Shopping Center LLC; therefore, no further subdivision action is required to permit the parcel's improvement. Pursuant to the submitted conceptual site plan, required cross-access easements have been provided to ensure that all future development on the 3.26-acre tract will be accessible. Preliminary review of the easements by Public Works Traffic Engineering and Fire Department staff has found their location and size to be adequate to support the proposed restaurant and future site uses.

Approval of this request would only confer approval of a CUP allowing for a drive-up facility on the 1.13 acre portion the subject property to be improved with the restaurant – and that is the only reason this request is coming forward. An approved CUP will run with the 1.13-acre parcel in perpetuity should Raising Cane's be replaced by another user. Should additional drive-up facilities be desired for the remaining 2.13 acres, separate applications for CUP approval would need to be sought.

The applicant has indicated seating areas will be located to the north of the restaurant between the building and the parking lot, and to the east (in front of the building) on the other side of the drive-up lane along the Providence Road frontage. As the conceptual site plan has the drive-up facility running in front of the building's Providence Road (and front entrance/street fronting side), the building will be unable to meet the required building line (RBL) provisions of the UDC, which require buildings (or in some instances street walls) to be built up to the sidewalk to maintain and integrate a consistent public realm. The applicant has considered this aspect of their site design, and potential alternatives (e.g. a drive-up facility only at the rear which does not circulate in front of the building) to be unworkable for them. As such, should the CUP be approved for the drive-up facility, the applicant will need to seek Board of Adjustment approval of a variance from the RBL requirement in order to build what is shown on the conceptual site plan.

Additionally, it is anticipated that the applicant will need a variance for the ground story height of the building to exceed the eighteen (18) inches above the average fronting sidewalk elevation permitted for non-residential uses under the Urban General - West Height Standards. The topography on the west side of Providence is such that this provision of the code may be challenging to meet without significant site grading.

It should be further noted that the conceptual site plan has been provided by the applicant to help the Planning Commission, staff, and City Council understand how the proposed improvements will function on the lot, to evaluate circulation and access, and to evaluate the six criteria laid out by the UDC when determining the appropriateness of a CUP. It is anticipated that minor revisions to the site plan may occur as building, site/civil, and landscaping plans are finalized to meet all other applicable city development regulations.

While drive-thru facilities presently exist in the M-DT district, this is the first drive-thru CUP request to go before the Planning and Zoning Commission since the adoption of the UDC in 2017. Prior to the adoption of the UDC, CUP requests were considered by the Board of Adjustment. Also prior to the adoption of the UDC, drive-thru facilities were classified as customary accessory uses to retail and restaurant uses, both of which were permitted in the former C-2 district now generally replaced by the M-DT Regulating Plan and form-based zoning requirements.

It should be further noted that in 2014 the subject 3.26-acre site was before the Board of Adjustment seeking CUP approval to permit an off-street, on-site parking lot in associated with a proposed McDonald's drive-thru restaurant. The request was precipitated by the fact that off-street, on-site parking lots were not permitted within the C-2 zoning district without approval of a conditional use. The Board approved the CUP request which permitted the construction of the desired parking lot and the associated stacking spaces required for the drive-thru. The issued Board Order on the request did not indicate any special consideration being given to permit the associated drive-thru that would have accompanied the McDonald's restaurant. After consultation with the City's Legal Department relating to the applicability of the previously granted CUP, it was determined that it was moot as a result of the adoption of the UDC and the changes it made to the list of permitted and conditional uses within each zoning district. Off-street, on-site parking is now a permitted use within the M-DT subject to specific form-based design requirements, whereas, a drive-thru now requires a CUP.

It should also be noted that the adoption of the UDC did not expressly repeal any policy resolutions previously adopted by the City Council. As such, staff must consider applicable policy resolutions and existing plans in addition to the provisions of the UDC, but note that the more recent adoption of the UDC and its regulatory function may supersede policy resolutions if conflicts exist.

The Comprehensive Plan and the development of the UDC were highly informed by the 2010 Downtown Charrette Planning Process, which developed a vision and actionable design with associated objectives and policies intended to foster an active urban core in the Downtown District, and by the 2007-2008 Visioning Process that ultimately led to the development and adoption of the Columbia Imagined Comprehensive Plan. The call for a form-based code for the Downtown District, now codified in the UDC, came from these community planning processes. As such, a land use proposal that is inherently in conflict with the UDC and the pedestrian-oriented district envisioned by Columbia Imagined is challenging to support as "consistent with the Comprehensive Plan", one of the six criteria for the approval of a CUP.

Staff believes that the plan submitted meets four of the criteria required for a Conditional Use Permit, namely: 1) that adequate access is provided for vehicular traffic (though the pedestrian environment is degraded by the vehicle environment); 2) that sufficient infrastructure and services exist or will be provided for by the developer in accordance with city codes for the development; 3) that the surrounding properties (Lucky's Market, Custom Complete Automotive and the undeveloped portions of

this lot) may not be significantly adversely impacted in terms of land use by the proposed development; and 4) the development itself is not out of character with the adjacent area west of Providence Road.

However, when evaluating the other two major criteria, staff does not find support for the CUP. The drive-up facility will prevent building to the RBL, which is one of the most significant design tools the code uses to foster a pedestrian environment. Additionally, there are inherent conflicts with the introduction of cars on the safety of pedestrians, especially when the design for cars supersedes the design for pedestrians, as described above.

When looking at the Comprehensive Plan in general and the Downtown Charrette in particular, it is challenging to believe that fast-food restaurants (which were expressly called out as a negative traffic generator in the Providence Road Policy Resolution) are envisioned as the highest and best use for this site. Furthermore, the Downtown Charrette identifies this site as the location of a catalytic project. There are policy resolutions in place that seem to resist the creation of fast-food restaurants in this area. Staff acknowledges the applicant's desires to find a user for this site; however, believes that the proposed CUP and intended fast-food development does not represent the vision of the desired catalytic project for this location.

Given this parcel's highly visible location and 3+ acre of development area, staff believes the City's visioning and planning documents call for a higher quality of development which meets the UDC and the collective vision of the community. Staff believes that this should be a pedestrian-oriented development. It needs to be walkable. It needs to be a high-quality development and needs to be a showcase for our community. This is not the highest and best use of this property. This is the only tool within the code that we have to enforce that vision.

Staff recommends denial of the Conditional Use Permit.

The public comment period was opened.

The first speaker was an attorney who represented the applicant. He presented a prepared slide show and spoke to the issue. He noted that there are other representatives of the project available. He was not surprised by the staff report, but he suggested that this is a shopping center that already contains a drive-through; is across from another drive-through restaurant (Hardees) and that it is analogous to other properties along this route. He noted that he handled an earlier use permit for this area and that it allowed off-street parking and drive-through circulation. Tonight, you are not considering the site plan (although he showed a conceptual idea of a potential building) – and this is not different than the way you access businesses like Lucky's or other businesses in this area.

He then noted that there was an earlier charrette and planning document, but none of those are binding, and there is an earlier allowance for a drive-through restaurant that still applies to this property. Under the new UDC, drive-through restaurants ARE eligible for construction with conditional use permits. This body is not supposed to consider site plans, elevations or anything else. We are only talking about the existence of a drive-through. Staff did not mention that drive-throughs are NOT addressed in the Comprehensive Plan. In fact, the city center includes all uses, including this type of structure with permission.

Stanton asked if the applicant was privy to the staff report before this hearing? The speaker said they did know what the city would say and that they have worked with staff for several months. The speaker

said he thinks that they DO comply with the current code and does not think that they should be held accountable to an old charette or other old plans. He did not discount those, but he noted that the newest rules define what can be there, and that there is no mention of those plans or enforcement of those allowed under the current, written rules.

The next speaker indicated that she represents Raising Cane's restaurant. She wanted to say that from an operational point of view, Raising Cane's has a high-level of operational standards. Some Drive-throughs suffer from negative images, and that when they first open, yes, they do generate traffic. But they are clean. Drive time from going into the line to check-out is 2.5 minutes. They have taken into account the UDC. We will be pedestrian friendly. We will have outside dining. We will have bike racks. I can answer other questions. Burns asked if there was a traffic study? The speaker said they did. Burns said it was difficult to guarantee that there would be no stacking of traffic on Providence. The speaker showed how the drive-through would be oriented. She talked about how the franchise operates with customers. The speaker noted that an earlier traffic study showed no negative impacts and that they will create a new one if they get this permit. Burns said she wanted to see the traffic study first. The speaker said they have one for McDonald's, and they can do another one if needed.

MacMann asked about the number of daily trips that might be generated for this kind of restaurant. The speaker offered to look that up.

The next speaker indicated that he has worked with Raising Canes restaurant. They are privately owned. They are a little different than a major corporation. They are good corporate citizens. They don't use microwaves. They mix sauces on-site. He noted how they have interacted with the St. Louis community in terms of charitable and community projects. They have donated more than \$20 million to charities to date overall nationally, and they have a goal to donate 20% of profits on a national and local basis.

The next speaker indicated that she is with a design group and that the generated trip count during peak is 200 trips and that other times is 145 trips. MacMann said he had heard that it is more like 1,000 trips at peak, but he does not know that for sure. The speaker took a few minutes, but found a memo that indicates the weekday max is 170 and the weekday average may be closer to 110. This is what they do for a living, so these should be considered to be reasonable. Burns asked about lunchtime stacking at Taco Bell. She noted that that was a place where stacking did occur. The speaker said they did not know how many customers would be pedestrian and how many would arrive by car. Rushing asked if most people would come in cars? The speaker said that was true, but that's why they work hard to minimize stacking time at their restaurants. Rushing asked if they have inside seating? The speaker said yes and that on this plan they have seating for approximately 90 to 100 patrons with some outside seating available.

The public comment period was closed.

Russell indicated that she was intending to support this. This is not Taco Bell. They will go through the Lucky's access. We may not be able to make this a beautiful corridor, but this is pretty good. MacMann said it is very difficult to make decisions without data. In the future, please, if you have data, bring it with you. Stanton said he thought there are drive-throughs up and down Providence.

"I am saying to future developers, there is a lot of information to let you know the pulse of this city. You should have this stuff ready to go. We have a lot of walking and biking people. You know Columbia doesn't work like that man. Maybe this would be right. I don't trust the traffic study. This will be the

hottest thing on the street. Look at Popeye's. There will be back-ups. I am not sure that this is what we want our city to look like."

Carroll thinks this does not reflect the goals of our city. Our downtown is very walkable. But, it connects to our trail hub. I admit that there are other kinds of uses on this road. The portion by Lucky's is dangerous. I don't know if I can support this. I know you think you are supporting a higher model of restaurant, but we are only looking at what is before us right now. Burns said she wishes she had more information. She sees a lot of potential traffic problems at Lucky's. She thinks we should look at the charettes and plans. I do not think this adds to the overall plan.

Loe said she thought the role of the Commission was to hold the project to the existing rules. She noted that Hardee's was allowed but that there have been plans before and since then and we need to consider those and other overlays that inform our decisions. She said she thought that it sounded like the restaurant would be lovely and the food sounded great.

Russell said she had visited a Raising Canes restaurant. She thinks that Chick Fil A is also good, and she believes they have good operations.

MacMann made a motion to approve the request.

The motion failed on a vote of 5 to 2 with Russell and Stanton voting YES.)

Case # 105-2019

A request by the City of Columbia to amend Chapter 29, Section 29-4.4(d) [Street Frontage Landscaping] and Appendix A, Section A.3 [Street Widths] of the City Code relating to applicability of street tree placement within the public right of way, tree spacing requirements, City Arborist responsibilities, and general corrections to the street width table.

(Action: At the March 18, 2019, Council meeting staff was requested to work with the Planning Commission to prepare amendments to Section 29-4.4(d) of the UDC pertaining to the placement of street trees within the public right of way. This request was precipitated following the final review of construction plans for one of the first new subdivisions to be constructed since the adoption of the UDC.

The review resulted in a more comprehensive understanding that the current regulations contain several technical as well as practical difficulties relating to their application within a new development. Issues such as insufficient right of way width to create a space conducive to tree survival, sight visibility concerns due to center-to-center tree spacing standards, and conflicts with other City Code provisions relating to buried utility separation were noted as issues making implementation of the current standards challenging if not impractical.

Given these concerns and the direction of Council, the staff and Commission held a series of work sessions in which proposed revisions to the current street tree provisions were discussed. In addition to internal discussion, the City's Tree Board took this matter up at its regular meeting in September.

The current regulations require that street trees be placed along right of way impacted by new platting actions (i.e. new final plats or replats) regardless of right of way width. The regulations further indicated that there is a required 4-foot separation between any buried utility and vegetation. Given this existing regulatory language, it was determined that it is often not possible to accommodate street trees on both sides of a right of way given the current placement of gas lines which are within the right of way at the back of curb.

Acknowledging the current utility placement practice and evaluation of the space retained between the back of the curb and face of a sidewalk on all types of streets, staff presented the Commission with three potential regulatory amendment options. Each option looked at ways streets could be maintained within the right of way and the potential impacts that such retention would create. Each option also included a series of amendments designed to make administration of the regulations more responsive to unique site conditions, enhance tree survival, and ensure public safety would not be compromised.

The attached amendment represents a combination of the provisions proposed from each of the three amendment options and was arrived at by a consensus of the Commission members participating in the work session discussions.

The attached amendment, if adopted, would result in the following revisions:

1. Clarifies that the planting of street trees on both sides of a right way would be applicable to only right of way greater than 50-feet in width that is newly platted, improved with new street construction, or “redeveloped” as defined within the revised regulations.

The impact of this recommended change would mean that street trees would only be required along both sides of streets classified as non-residential or greater (collectors or arterials). These streets typically have a minimum of 60-feet of right of way and afford larger (typically 7-17 feet) of planting area behind the curb. The proposed revision has also been offered to clarify that a typical re-subdivision of existing lots would not trigger the requirement to plant street trees; however, would apply to unimproved formerly platted rights of way that were undergoing new roadway construction.

2. Reduces the number of street trees required along a right of way from one tree for every 40- feet of street frontage to one tree per every 60-feet of street frontage.

The recommended change is proposed to address practical and public safety concerns that have been exacerbated with the current provisions. As written, the intensity of tree placement creates conflicts with driveway, light pole, and utility pedestal locations necessary to serve new development – especially residential development.

3. Removes the criteria for defining the percentage of street trees that must be of large and medium species and clarifies that proposed street trees must adhere to adopted city guidelines.

The recommended change is proposed to allow greater flexibility in determining what type of trees (large, medium, or small) should be planted as street trees so they have the greatest opportunity for survival based on their specific planting location. To ensure tree diversity is retained, the regulations provide added clarity that no more than 30% of the required trees can be from a single tree species.

4. Provides the City Arborist added flexibility to adjust the standard center to center spacing requirements. The recommended change is proposed to make clear that uniform street tree placement may not be possible in all circumstances and that the City Arborist is authorized to make adjustments administratively.

5. Creates a requirement for compacted soil amendment to support tree survivability. The recommended change is proposed in acknowledgement of the fact that the area between the back of curb and sidewalk is often an inhospitable for tree growth due to the impacts of compacted soils. To address potential concerns of unnecessary soil amendment and additional development costs a procedure for appeal of the requirement is contained within the provision.

6. Removes the requirement that street trees not capable of being located within public right of way be installed on private property within the required private landscape buffer. The recommended change is proposed to reduce the enforcement and maintenance issues associated with requiring regulatory requirements to be met on private property. As currently written, the City would be obligated to enter private property to maintain or replace street trees – an issue for which the City is currently not staffed or funded and one that may create conflict with residents not desiring such improvements within their private property. That is because the next strip of land may be a 10-foot strip of utility easement so you would end up with new “street” trees in the middle of someone’s yard.

7. Clarifies when a reduction in required street trees is permitted. The recommended change is proposed so that it is clearly understood when an existing or proposed buried utility will not permit the required street trees on both sides of a right of way that the required trees will only be required on the side opposite of the where the buried utility conflict exists. This will also allow for trees to be clustered if necessary.

8. Clarifies and establishes street tree planting obligations when right of way is “redeveloped”. The recommended change is proposed to establish a clear demarcation between when street trees are required and when they are not required. This is in part, to avoid a requirement to require trees in a place where no others already exist in an incomplete subdivision.

In addition to the proposed revisions noted above, the attached amendment also addresses technical corrections to the “Street Widths” Table of Appendix A, Section A.3. The corrections proposed address erroneous footnotes that were eliminated when the UDC was adopted and correct right of way and pavement width dimensions for “Local, residential” street that were improperly stated within the Table. Also, if there are currently projects in process, they will be subject to the old rules.

Staff recommends approval of these changes as submitted.

Loe asked about the notation in the new bill referencing streets of 50-feet or less and the staff indicated that was what was intended. In effect, that requires street trees on streets of 50-feet in width or more.

The public hearing was opened.

The first speaker asked if you have a commercial lot, the rule seems clear. If you are building a residential lot, when do you need to plant the trees? Is it as you go along or at the outset? Staff said that it will not be required at the outset, but after building plans are determined. The speaker then asked about commercial trees with parking lots. Is it the intent to require double rows of trees between the street and parking areas? If so, there could be competing trees on two sides of an internal street. MacMann said he had anticipated that problem, but he thought it was a good idea and suggested that the speaker should embrace the idea.

The public hearing was closed.

Stanton moved for adoption of the proposal.

Loe indicated that an article she had reviewed was that there needed to be more input from residents regarding this kind of rule and that she believed residents should have more control of their own spaces more than the city. She wanted to know how trees could be planted voluntarily, but the language is not

clear. She wants the rules to be permissive. Could we change the rule to define street trees to allow for street trees to be planted, whether required or voluntarily planted, to be in accordance with the established rules? Burns said she knew of existing rules regarding city guidance regarding the planting of trees that could impede sight-lines or create other problems. MacMann said he agreed with that sentiment. He noted that he had trouble finding references on the city website. He said that most people who reference this information are people like Mr. Gebhardt, Mr. Crockett and Mr. Hollis. He thinks they may understand this, but they may be splitting hairs and he thinks it needs to be clear. Loe said she wants clarification. MacMann said he believes the current language is clear enough. Loe thinks there needs to be more clarification.

Carroll said she doesn't think people go to the building code when they plant trees. But, she does think neighborhood associations will read this to enforce it. MacMann suggested approaching this in a different way without a new amendment.

**Stanton offered a motion to approve the new rules as presented.
The motion was approved unanimously.)**

PUBLIC COMMENTS

One speaker noted that during the discussion of Raising Cane's restaurant, no additional right-of-way was required on that property. Is that the norm? Other properties have had had different rules applied.

No other speakers appeared.

STAFF COMMENTS

Staff noted that the next P&Z meeting is scheduled for December 19, 2019. The following items are expected to be considered by the commission that night:

Subdivisions:

Moon Valley, Plat 1

Chapel Hill Meadows, Plat 2 – (Christian Fellowship application including access off Louisville with design adjustments)

Public Hearings:

Poplar Street rezoning from R-MF to MC

Anderson Avenue – Conditional Use Permit for an ADU on a property that was earlier downzoned. The downzoning triggered the requirement for a Conditional Use Permit.

COMMISSIONER COMMENTS

(None.)

NEXT MEETING DATE - December 19, 2019 @ 7 pm

ADJOURNMENT

(Time: 10:19 PM)

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