



Columbia Planning & Zoning Commission Meeting Recap

Council Chambers, Columbia City Hall
7:00 PM Thursday, January 9, 2020

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

APPROVAL OF AGENDA (Agenda approved as submitted.)

APPROVAL OF MINUTES ([Minutes from January 9, 2020](#) approved as submitted.)

SUBDIVISION AND PUBLIC HEARINGS

Case # 45-2020

A request by Crockett Engineering (agent), on behalf of Cherry Street Hotel, LLC (owner), for a replat of Lot 158 and the west sixty-five feet of Lot 159 of the Original Town of Columbia. The resulting approximately 0.41-acre subdivision will be known as "Cherry Street Hotel" and is located at the northwest corner of Cherry Street and Hitt Street. The request also includes a design adjustment from Chapter 29-5.1 (Public Improvements), requesting a waiver from the dedication of utility easements adjacent to public roadways.

(Action: The application for replatting is required to bestow legal lot status in advance of future site redevelopment. The applicant has indicated a desire to build a six-story hotel; however, building plans have not yet been submitted. More complete plans will come after the initial plat has been approved. Some people did attend an informational meeting and asked about what this development would be and how would parking be accommodated. The subject property is currently improved with a surface parking lot and a two-story office building, which is anticipated to be demolished. The building is presently vacant. There have been questions about historic property designation. Staff said that many buildings in downtown are in a blanket historic district, but it is not individually recognized as such. It IS a contributing property.

The subject site is zoned M-DT (Mixed Use- Downtown), as are the adjacent properties. The property is adjacent to the Cherry Street Centre property on the west. To the east of the property, across Hitt Street, is the Hittsville Building (Ragtag, Uprise Bakery and Hitt Records). To the north, across the public alley (Alley A), is the Stephens building (Gunter Hans, Seoul Taco and Lizzi & Rocco's Natural Pet Market).

The plat will dedicate additional half-width right-of-way (ROW) for Hitt Street (33' half-width for a local non-residential street), as well as the required 30' corner truncation at the intersection of Cherry Street

and Hitt Street. The plat also provides the required 5' corner truncation at the existing public alley (Alley A) and its intersection with Hitt Street, and dedicates 4.5 feet of ROW for the alley. The alley is presently 15 feet, and the additional dedication brings the half-width dedication from the subject property to 12, which would accommodate the 24' wide IDEALIZED alley standard identified for the M-DT zone.

During the public information meeting for this request, concerns were expressed about the provision of parking for a hotel. There are no parking requirements for commercial uses within the M-DT. The applicant has indicated, however, that they are pursuing options for parking. Parking requirements are more of a land use question and are not really part of the platting process.

Staff finds the plat is compliant with all aspects of the subdivision requirements of the UDC with the exception of the requested design adjustment. The applicant is requesting a waiver from the requirements of Section 29-5.1(g)(4) of the UDC that requires dedication of 10-foot utility easements along both Cherry and Hitt Streets. The UDC provision states that "to the **possible**, utilities shall be located in designed easements and not in the street right-of-way". This requirement provides opportunity to carefully weigh whether there is a need to allocate such easements to provide space for utilities, now and in the future; however, does not afford an administrative remedy hence the requested design modification.

In this specific instance, a proposed replat of downtown property, staff has determined that utilities serving the site are located within the existing street right of way. Furthermore, development within the M-DT zone is governed by the Regulating Plan, which identifies a Required Building Line (RBL) which serves as a built-to line to encourage new buildings to be built to a shared plane at the edge of the sidewalk to foster a pedestrian environment and cohesive urban form across often multiple facades on a block. This does not have to be a zero-sum game. You can make an exception in this case and may choose to rule a different way on a case-by-case basis.

Given the requirements of the M-DT's RBL, there is an inherent and known conflict between the RBL and the required ten-foot utility easement provision. In evaluating this plat and site in particular, it has been determined that there is enough utility provision without any additional utility easement being provided. This conclusion was reached following coordination with staff responsible for electric, sewer and water utility provision. As such, the entire waiver of the 10' utility easement is deemed reasonable and would not impact service provision now or in the future. There is no identified need for additional utility easements and granting of the requested waiver is supported. Should additional policy guidance be provided, staff will evaluate subsequent plats accordingly.

In terms of the remaining design adjustment criteria, staff does not see adverse impacts to adjacent property owners, induce dangerous conditions in terms of site circulation, addresses the unique characteristics of utility provision for this area, and does not create adverse impacts to public health or safety.

The overall recommendation of the staff is approval of the requested design adjustment to Section 29-5.1(g)(4) pertaining to the dedication of utility easements; and approval of the final plat. Staff asked that this be voted on in two separate actions, with one being the plat and one being the exception.

MacMann said he wants the city council to ask the P&Z to further examine this issue because he believes they do not understand the magnitude of this issue. He thinks this is an example of going back to the good old days and wants the council to be aware of these proceedings.

The public hearing was opened.

The first speaker was an engineer who represented the applicant. He noted that there is a request for a design exception. He indicated that there is significant room for all utilities that would be required. His client has been in touch with the city regarding alternative parking options including a surface lot that the applicant owns nearby. He asked for approval and offered to answer questions.

The hearing was closed.

Russell indicated that she likes this idea particularly with its proximity to the Ture False festival and other special events.

MacMann believes that this will present a serious problem in terms of providing water, sewer and other needed utilities. Stanton said he believed that parking will be an issue, and that maybe someday we will address that problem more directly.

**A motion to approve the requested design adjustment was made and seconded.
The motion passed 6 to 1 with MacMann voting NO.**

**A motion to approve the plat, with the adjustment, was made and seconded.
The motion passed 6 to 1 with MacMann voting NO.)**

PUBLIC HEARINGS

Case # 28-2020

A request by Brush and Associates (agent) on behalf of Thomas and Pam Kardon (owners) for a rezoning of approximately .44 acres of property from PD (Planned Development) to M-N (Mixed Use Neighborhood). The property is addressed 1001 N. Providence Road and is located at the northwest corner of Providence Road and Third Avenue.

(This item was tabled at the January 9, 2020 Commission meeting)

(Action: The applicant is seeking to rezone approximately .44 acres of property from PD (Planned Development) to M-N (Mixed use- Neighborhood). The site has been subject of numerous rezoning requests over the past twenty years.

In 2004, the subject property was rezoned to C-P and restricted to a single use – an auto parts store. The C-P development plan for this use was approved in 2005; however, site improvements were not completed until mid-2009. In November 2009, the subject property was successfully rezoned to permit an expansion of allowed uses and to revise the design parameters. The 2009 expanded use list permits the property to be used for general offices and the related sale or rental of goods for such uses as artists, lawyers, physicians, teachers, barber and beauty shops including the retail sale of beauty supplies, and counseling centers excluding halfway houses in addition to the previously approved auto parts store.

Additionally, the 2009 ordinance also imposed restricted hours of operation (7:00 a.m-7:00 p.m.), a high-level landscaping plan, and less stringent parking (21 spaces verses 23) upon businesses operating on the site. Most recently the site has housed the AQ Beauty Supply store. The property owner has

indicated challenges in leasing the space given the limitations of the permitted uses and has indicated going through the PD revision process for new uses for new tenants is time consuming, uncertain and costly. As such, they are seeking to rezone the property to the M-N district as they feel the zoning would allow the uses they believe are likely to want to occupy the property. Furthermore, the straight zoning would eliminate the need for additional rezoning actions or plan revisions in the future.

Staff acknowledges the applicant's concerns and frustrations with revisions to a PD and their desire to seek straight zoning; however, rezoning requests to remove property from such a designation come with additional concerns. Property is often zoned planned district because of a need for careful consideration of the impacts that permitted uses may generate on adjacent property and to allow site specific conditions to be applied. The requested rezoning would eliminate the ability to impose use restrictions, mandate enhanced landscaping requirements, and limit hours of operation. Furthermore, such an action would eliminate the requirement of a public approval process for site plan changes.

Should the subject property be successfully rezoned to M-N, all of the permitted retail uses within the M-N zone would be allowed. It is staff's belief that many of the retail uses are not appropriate given the property is not at a nodal location and it is directly adjacent to a residential neighborhood already experiencing cut through traffic and commercial creep.

Given the immediately surrounding zoning mix, taking this property out of PD and zoning it M-N would be a spot rezoning, and may contribute to unplanned commercial creep further into the neighborhood. While some office and planned commercial uses are along the Providence Road corridor, the existing list of permitted uses per the site's approved SOI do not seem out of line with the existing land use mix. As noted above, staff has discussed with the applicant the potential to revise the existing permitted uses to accommodate uses not presently allowed, but potentially appropriate on the site. As stated above, the applicant does not favor incrementally revising the site's entitlement due to time and cost.

Per the Comprehensive Plan, the proposed zoning designation sought with this request could reasonably fit within the context of the Comprehensive Plan land use designations for the site, which is commercial. However, when giving further consideration to how this property and the proposed zoning changes correlate with the Comprehensive Plan it should be noted that the Plan promotes context-sensitive development and neighborhood planning. The subject property is not part of an existing neighborhood plan which would typically provide finer-grain details as to its desired future land use.

In preparing this report, staff has received no information from adjoining property owners or the neighborhood association (for or against) this proposal. The applicant has indicated the neighbors are in support of this proposal now that there has been time to see the building and operations thereof, though no correspondence has been provided. The owner of the Aroma Coffee House to the north attended the public information meeting in support of the request and described the challenges they perceived as recent applicants going through the PD zoning process.

Given all of the information and the facts inherent to this site, it is staff's finding that the requested rezoning is not appropriate at this time. Staff believes the remedy to the property owner is to work with the city and the community to revise the existing permitted uses with related and appropriate control mechanisms. This is especially true in an area where the land use mix is challenged by commercial creep in a historically residential area.

After the original report was submitted, and subsequent to the last hearing during which some testimony was received, staff discussed this matter with the applicant to see if a revision to the original Statement of Intent in a Planned District would be sufficient for the applicant's uses, rather than ask for a change of zoning to M-N. Based on this discussion, staff prepared a revised SOI for the applicant's consideration that expanded permitted uses to include retail, general and restaurants and prohibit alcoholic beverage sales. The revised SOI retained all previously approved SOI provisions pertaining to landscaping, hours of operation limits, and reduced parking.

Upon review of the revised SOI, reformatted to conform to UDC provisions and terminology, the applicant has chosen to reject the proposed revisions and desires to continue to pursue the requested zoning change from PD (Planned District) to M-N (Mixed-use Neighborhood). No additional input has been received from the adjoining neighborhood. Given this outcome, the previously presented findings in the January 9, 2020 staff report on this matter remain unchanged.

Staff recommends denial of the request and would prefer to see a PD plan retained at this location.

MacMann indicated that the North Central Neighborhood did not receive notice of this action because the leader of one of those neighborhoods is his roommate and does not believe the roommate was aware of this activity. And he believes that Pat Kelly was not fully aware of this action in the Ridgeway Neighborhood. He admitted that some neighbors would support and some would oppose this.

Strodtman asked about hours of operation and if that was required in a Planned District? Staff said it was not *required* in all districts, but it could be included as a requirement. He further asked how much neighborhood input occurred when the barbershop was put in this area? Staff said there was significant neighborhood participation in the past and that hours of operation were discussed. Strodtman said he thought that Providence was actually the main street in consideration here, but he wanted to know how Third Avenue would relate to the drive-through that exists on the adjacent property. Staff said that there were different restrictions such as right-turn movements and believed that this building would have to be made to conform to a statement of intent that protected the access and traffic management in this area. Zenner said he was not sure that they would gain anything by eliminating cut-through traffic beyond where it is now.

Staff said that they were concerned that they could not condition straight zoning like they can Planned districts and that some prior restrictions could be lost if M-N zoning were granted. Staff admitted that the applicant is not asking to build the building any bigger than it is, but that general control would be lost. Stanton said he believed that the neighborhood was vigorous when the coffee-shop came in, and they have already made their views known. That may be why they are not here now. He asked if the applicant did not agree to staff recommendations. Staff indicated that that was generally true, and Stanton concluded that there is nothing new and P&Z is then looking at the same thing they saw last time. There were nods of agreement.

The hearing was opened.

The first speaker was the applicant. He said he would not take too much time. He does not think this has been fair. He said that these are the two newest, best looking buildings in this area. He noted that near his building and the coffee shop, there is a large area zoned M-N. There are 20 houses that adjoin that M-N area. He thinks this could be that same way. He should be able to adjoin a residential neighborhood as an M-N property and not be required to have a Planned designation. He said he has turned down

supermarkets and 24-hour operations for this property himself and will be a good neighbor. But, now, he is being presented with more hurdles. He thinks M-N is a good option, it protects the neighbors and he likes them. He thinks the opposition is coming from people who don't even live in this area. He is not asking for zoning for a big box store, even though this should be a commercial area. We have lost business here because of restrictions. We want to bring in someone new and it is not fair to not have M-N.

MacMann asked if it was the applicant's desire to have more freedom to rent to someone new if they got a new zoning designation. MacMann asked why he can't do that under Planned Zoning? The applicant said he has been here many times and each time it takes more time and more money and it makes rent negotiations become difficult and each time he has to spend more money on all of this it escalated the price. He is getting old. He wants to resolve this for his kids and let them take it over. He does not want to have to come back here again.

Stanton said the applicant's son made a good case last time they were here. He asked why changing the Statement of Intent was not good enough? The speaker said he only got permission for a few things and there is no way that they can accept that with the additional limits. He believes that some of the rules they are proposing, he has already integrated into his property voluntarily like alcohol sales. Make the rule one mile from a school prohibiting liquor and that will be OK with him because he is not going to be a liquor store but don't put unneeded limitations on this property. The neighbors did not complain about this this time. The people across the street did not complain. The coffee shop has been just fine and people like it.

The next speaker was the daughter of the applicant. She said that the reason they want M-N is that every time they want to do something new on this site, which could happen, they will have to come back here. There are already several homes in this area that are adjacent to M-N property. It should be remembered that we have worked with the neighborhood in the past and that we are reasonable people. Stanton said that if they give the applicant M-N they open the flood gates and that they will be forced to make land use decisions based solely on trust. This is not about trust. It is about regulation.

The applicant said that they will be just fine. Stanton said that's what you said, but we can't guarantee that. The applicant asked about the other homes that about M-N. What are you going to do about those? Why are we different? Stanton said we are not talking about those, we are talking about this property. The applicant said we are be held to a harsher standard than the other areas. This building is not built to feature alcohol and tobacco. Stanton asked if the speaker understood his position? She said yes, she has understood that position since she was twelve years old and she is now an adult. I have watched my dad come here over and over and over again.

Carroll commented that Stanton commented about the trust issue. She does not think it is a trust issue. She likes Mr. Kardon. But, we don't give licenses for businesses at P&Z. We give permission for land uses and something other than what you have proposed could come in. She understands that there are other M-N zoning areas that adjoin residential, but she is looking at this property. Carroll said this building may not be suitable for the sale of alcohol and tobacco, but staff is recommending staying as P-D and that would not allow it to change. The speaker said yes, but your rule prohibits us from having anything different here without coming back here time after time.

Stanton said the neighborhood has already spoken. He reminded them of the coffee shop thing. The neighborhood was vigorously involved in that discussion. So was North Central. They don't want liquor.

They don't want adult entertainment. Stanton likes this business and the speaker's father. Let's make this a win-win. Don't end the SOI. If your whole family was wiped out today, then where would we be left? With someone who wouldn't follow your promises?

Loe interjected and said they have had this discussion at the last meeting. She asked if there were any additional speakers? Russell noted that she wants to say yes to this, but she does not think it should be opened up to a convenience store, alcohol sales or a 24-hour operation. She thought she would probably oppose this.

Loe said she was entertaining denying the request at the last meeting. However, the neighbors have not chimed in on this issue this time, and she thinks that is significant. The original PD went through 13 years ago, and this area has changed since that time. This is actually an island of PD, not the other way around, and there is a large section of residential adjacent to M-N in this area. So, she plans to support this request this time.

Stanton said the neighborhood has already spoken. They did it 13 years ago. They got what they needed then and did not come back now because they have already spoken. Can we keep changing on them? MacMann said that he wanted to echo Russell's points and that he would like to support this, but he does not feel comfortable. Carroll asked if the gentleman who owned the homes next door was being remembered. She believes that the rights of neighbors are not less than those of the property owners. Russell reminded the group that the owner of the adjacent properties supported this as M-N. Staff corrected that interpretation by saying there were two speakers, and he does not remember exactly what point the second speaker made. Staff also corrected MacMann and indicated that, in fact, the North Central neighborhood and the adjoining neighborhood had been contacted, even if one of the representatives is his roommate.

**Discussion ended. Russell made a motion to approve and roll was called.
The motion failed with Carroll, Stanton, Russell and MacMann voting NO and Rushing abstaining.)**

**PUBLIC COMMENTS
(None.)**

STAFF COMMENTS

At the next meeting they will have a joint city/county worksession to review and discuss future processes for the West Columbia Area Plan. We will determine the area, the process and potential content of any future document. That meeting will last 1.5 hours.

At the next meeting, Loe will be absent and Toohey will chair both the worksession and the regular meeting. At the full meeting, the following issues will be considered:

- **Rockbridge Elementary** final plat approval with the stem lot. (a separate parking variance will go to the BOA later in the year.)
- **Summers and Greer** (Cherry Bark Permanent Zoning)

COMMISSIONER COMMENTS

(Loe noted that P&Z makes recommendations regarding detail and the existing rules of the city. The city council has a different ability and responsibility and may make final decisions that deviate from existing rules. These are distinct responsibilities and sometimes result in different decisions than the recommendation that comes forward from P&Z.)

NEXT MEETING DATE - February 6, 2020 @ 7 pm

ADJOURNMENT
(Time: 8:18 PM)

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