

Introduced by _____

First Reading _____

Second Reading _____

Ordinance No. _____

Council Bill No. B 216-11

AN ORDINANCE

rezoning property located on the southeast corner of Nifong Boulevard and Bethel Street from Districts R-1, R-2, R-3 and O-1 to Districts PUD-17 and C-P; repealing all conflicting ordinances or parts of ordinances; authorizing a development agreement; directing the city clerk to have a certified copy of the development agreement recorded; and fixing the time when this ordinance shall become effective.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBIA, MISSOURI, AS FOLLOWS:

SECTION 1. The Zoning District Map established and adopted by Section 29-4 of the Code of Ordinances of the City of Columbia, Missouri, is amended so that the following property:

Two lots located in the southwest quarter of Section 25 T48N R13W and in the northwest quarter of Section 36 T48N R13W, in Columbia, Boone County, Missouri, being Lot 1 and Lot 2 Rockbridge Subdivision Block VIII, recorded in plat book 20 page 72 of the Boone County records.

will be rezoned and become a part of District PUD-17 (Planned Unit Development) with a development density not exceeding 17 dwelling units per acre, and C-P (Planned Business District), as set forth in Sections 3, 4, 5 and 6 of this ordinance, and taken away from District R-1 (One-Family Dwelling District), District R-2 (Two-Family Dwelling District), District R-3 (Multiple-Family Dwelling District) and District O-1 (Office District).

SECTION 2. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 3. The following property:

Development Area A

A tract of land located in the northwest quarter of Section 36 T48N R13W, in Columbia, Boone County, Missouri, being part of Lot 1 Rockbridge Subdivision Block VIII, recorded in plat book 20 page 72 of the Boone County records, described as follows:

Starting at the southwest corner of Lot 1 Rockbridge Subdivision Block VIII, thence N 3°18'00"W, along the westerly line thereof, 139.53 feet to the point of beginning.

From the point of beginning, thence continuing along the lines of Lot 1 Rockbridge Subdivision Block VIII, N 3°18'00"W 151.78 feet; thence along a curve to the right, having a radius of 730.94 feet, a distance of 52.36 feet, the chord being N 1°15'00"W 52.35 feet; thence along a curve to the right, having a radius of 30.00 feet, a distance of 46.11 feet, the chord being N 44°53'50"E 41.70 feet; thence N 88°55'50"E 98.55 feet; thence N 77°45'40"E 286.60 feet; thence, leaving the lines of Lot 1 Rockbridge Subdivision Block VIII, S 14°56'00"E 73.99 feet; thence S 0°00'00"W 224.04 feet; thence S 89°56'10"W 417.24 feet to the beginning and containing 2.48 acres.

will be rezoned and become a part of District C-P (Planned Business District) and may be used for the uses allowed in the lengthy and redundant Statement of Intent, marked "Exhibit A," which is hereby made a part of this ordinance.

SECTION 4. The following property:

Development Area B

A tract of land located in the southwest quarter of Section 25 T48N R13W and in the northwest quarter of Section 36 T48N R13W, in Columbia, Boone County, Missouri, being part of Lot 1 and Lot 2 Rockbridge Subdivision Block VIII, recorded in plat book 20 page 72 of the Boone County records, described as follows:

Starting at the southeast corner of Lot 2 Rockbridge Subdivision Block VIII, thence along the southerly line thereof, N 89°24'00"W 98.75 feet; thence S 89°56'10"W 585.39 feet; thence, leaving said line, N 0°03'50"W 330.30 feet to the point of beginning.

From the point of beginning, thence S 89°56'10"W 316.53 feet; thence N 0°00'00"E 224.04 feet; thence N 14°56'00"W 73.99 feet to the northerly line of Lot 1 Rockbridge Subdivision Block VIII; thence along said line and the northerly line of Lot 2 Rockbridge Subdivision Block VIII, N 77°45'40"E 422.24 feet; thence, leaving said line, S 0°00'00"E 384.59 feet; thence S 89°56'10"W 77.05 feet to the beginning and containing 3.11 acres.

will be rezoned and become a part of District C-P (Planned Business District) and may be used for the uses allowed in "Exhibit A."

SECTION 5. The following property:

Development Area C

A tract of land located in the southwest quarter of Section 25 T48N R13W and in the northwest quarter of Section 36 T48N R13W, in Columbia, Boone County, Missouri, being part of Lot 2 Rockbridge Subdivision Block VIII, recorded in plat book 20 page 72 of the Boone County records, described as follows:

Beginning at the southeast corner of Lot 2 Rockbridge Subdivision Block VIII, thence along the southerly line thereof, N 89°24'00"W 98.75 feet; thence S 89°56'10"W 585.39 feet; thence, leaving said line, N 0°03'50"W 330.30 feet; thence N 89°56'10"E 77.05 feet; thence N 0°00'00"E 384.59 feet to the northerly line of Lot 2 Rockbridge Subdivision Block VIII; thence along the lines of said Lot, N 77°45'40"E 53.60 feet; thence along a curve to the left, having a radius of 1315.95 feet, a distance of 552.70 feet, the chord being N 65°43'50"E 548.65 feet; thence S 3°18'00"E 953.81 feet to the beginning and containing 11.44 acres.

will be rezoned and become a part of District C-P (Planned Business District) and may be used for the uses allowed in "Exhibit A."

SECTION 6. The following property:

Development Area D

A tract of land located in the northwest quarter of Section 36 T48N R13W, in Columbia, Boone County, Missouri, being part of Lot 1 and Lot 2 Rockbridge Subdivision Block VIII, recorded in plat book 20 page 72 of the Boone County records, described as follows:

Beginning at the southwest corner of Lot 2 Rockbridge Subdivision Block VIII, thence N 3°18'00"W, along the westerly line thereof, 330.83 feet; thence leaving said line, N 89°56'10"E 733.77 feet; thence S 0°03'50"E 330.30 feet to the southerly line of Lot 2 Rockbridge Subdivision Block VIII; thence S 89°56'10"W, along said line, 715.10 feet to the beginning and containing 5.49 acres.

will be rezoned and become a part of District PUD-17 (Planned Unit Development) with a development density not exceeding 17 dwelling units per acre and may be used for apartment houses, multi-family dwelling structures and private amenities for the residents.

SECTION 7. The City Manager is hereby authorized to execute a development agreement with Jeffrey E. Smith Investment Co. as it relates to the rezoning of the property described in Section 1. The form and content of the agreement shall be substantially as set forth in "Attachment B" attached hereto and made a part hereof as fully as if set forth herein verbatim. The rezoning of the property described in Section 1 is subject to the condition that the property owner enters into this development agreement.

SECTION 8. The City Clerk is authorized and directed to have a certified copy of the development agreement recorded in the office of the Boone County Recorder of Deeds.

SECTION 9. This ordinance shall be in full force and effect from and after its passage.

PASSED this _____ day of _____, 2011.

ATTEST:

City Clerk

Mayor and Presiding Officer

APPROVED AS TO FORM:

City Counselor



**City of Columbia
Planning Department**

701 E. Broadway, Columbia, MO
(573) 874-7239 planning@gocolumbiamo.com

Statement of Intent Worksheet

For office use:

Case #: 11-34	Submission Date:	Planner Assigned: H23
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Please provide the following information, which shall serve as the statement of intent for the proposed planned district zoning:

1. The uses proposed.
See Attachment A for the proposed land uses and Attachment B for Exhibit of Development Areas.
2. The maximum gross square feet of building floor area proposed. If **PUD** zoning is requested, indicate type(s) of dwelling units & accessory buildings, and maximum number of dwelling units & development density.
See Attachment A
3. The maximum building height proposed.
per PUD and CP requirements (45')
4. The minimum percentage of the site to be maintained in open space, shown by the percent in landscaping and the percent left in existing vegetation.
A minimum of 15% to be maintained in open space.

The following items only apply to PUD zoning requests:

5. The total number of parking spaces proposed and the parking ratio per dwelling unit.
150 parking spaces and a parking ration = 1.6 spaces per dwelling unit
6. Any amenities proposed, such as swimming pools, golf courses, tennis courts, hiking trails or club houses.
Amenities will be provided within the buildings. Exact amenities are yet to be determined.
7. A general description of the plan including minimum lot sizes, if applicable, minimum building setbacks from perimeter and interior streets, other property lines and minimum setbacks between buildings.
The plan for PUD zoning includes two lots with a minium lot size of 2 acres and with minimum building setbacks of 25' along Bethel Street and school property, 10 feet along the C-P property, and 0 feet for retaining walls.

See Attachment C to the Statement of Intent for Signage and Traffic Impact Study requirements, for requirements dealing with public streets, and for requirements of Public Works Department, .

Note: At the discretion of the applicant, the statement of intent may include other aspects of the proposed development.


Signature of Applicant or Agent

Date

ATTACHMENT A TO STATEMENT OF INTENT

PERMITTED USES IN DEVELOPMENT AREAS A, B, C AND D

I. Proposed Permitted Land Uses for Property within Development Area A:

1. Permitted Land Uses within Development Area A shall be the following:

1.1 Alcoholic beverage sales by the package, but only as an “Accessory Use” or “Ancillary Use” as hereinafter defined in drug stores or specialty food stores, or grocery stores, or speciality wine stores but not to include and excluding Package Liquor Stores as hereinafter defined, and not to include Convenience Stores, as Convenience Stores shall not be a Permitted Land Use in any of Development Areas A, B, C and D;

1.2 Alcoholic beverage sales by the drink, on licensed premises, in restaurants or similar places where substantial quantities of food are served, all in compliance with all applicable alcoholic beverage regulations of Chapter 4 of the Code of the City of Columbia and other governmental requirements;

1.3 Bakeries;

1.4 Banks and other financial institutions and travel agencies;

1.5 Barber and beauty shops;

1.6 Bicycle repair shops;

1.7 Churches, mosques and synagogues;

1.8 Cleaning, pressing and dyeing establishments provided that no explosive cleaning chemicals shall be used;

1.9 Electrical repair shops, but only for repair of household appliances, and small appliances, computers and similar household items;

1.10 Child daycare centers, child preschool centers, nursery schools, child education centers or child development institutions, but only as permitted (and in compliance with) all zoning regulations and other regulatory requirements of the City of Columbia;

1.11 Office buildings used for administrative functions of businesses, professions, companies, corporations and social, philanthropic, eleemosynary or governmental organizations or societies;

1.12 Offices for professional use and business use involving the sale or provision of services, but not the sale or rental of goods, including but not limited to:

- a. Artists, sculptors, photographers;
 - b. Authors, writers, composers;
 - c. Lawyers, engineers, planners, architects, realtors, accountants, insurance agents, brokers and other consultants and similar professions;
 - d. Ministers, rabbis, priests or other clergy members;
 - e. Physicians, dentists, chiropractors or other licensed medical practitioners;
 - f. Seamstresses and tailors;
 - g. Teachers of private lessons in art, music or dance;
- 1.13 Photographic service shops and studios;
- 1.14 Physical fitness centers, private gymnasiums and reducing salons;
- 1.15 Printing shops, provided that total mechanical power used in the operation of such printing plant shall not exceed five horsepower;
- 1.16 Public administrative buildings;
- 1.17 Public libraries;
- 1.18 Residential care facilities;
- 1.19 Restaurants, cafés or cafeterias which provide live or recorded music, provided that any such music shall not be plainly audible at the property line of the property on which the building is located;
- 1.20 Restaurants, cafés and cafeterias which provide no form of music;
- 1.21 Schools operated as a business within an enclosed building, including but not limited to vocational schools and trade schools, provided, however, that no such school shall offer retail goods or services to the public;
- 1.22 Shoe repair shops;
- 1.23 Shops for custom work or the manufacture of articles to be sold at retail only on the premises, provided that in such manufacture the total mechanical power shall not exceed five horsepower, and provided that the space occupied by the manufacturing use shall not exceed fifty percent (50%) of the entire building or the equivalent of the ground floor thereof, and provided

further that such manufacturing use may not in any manner or respects be noxious or offensive by reason of vibration, noise, odor, dust, smoke, gas or otherwise;

1.24 Stores, shops and markets for retail sales, provided that no merchandise shall be displayed, stored or offered for sale on the premises outside of a building;

1.25 Theaters, but not including drive-in theaters;

1.26 Wholesale sales offices and sample rooms;

1.27 Any bank or retail facility (such as a drugstore) shall be permitted to have a drive through facility as an accessory use, which is incidental to the primary or principal business of the facility or establishment, but drive through facilities for restaurants, cafés and cafeterias shall not be a permitted use, and any drive through facility for any such bank or other retail facility, such as a drugstore, located within Development Area A (as opposed to Development Area B or C) must be located on the side of the building which faces away from, and is located opposite of, Bethel Street.

ACCESSORY USES

Subject to the specific exclusions set forth below in “Specifically Excluded Uses,” customary accessory uses which are incidental and subordinate to the principal business of a Permitted Use, as described above, shall be permitted; provided, however, that drive through facilities for retail and service establishments shall be permitted, as an accessory use, only where such drive through facilities are incidental and subordinate to the principal business of the establishment; and provided further, however, that no restaurant, café, cafeteria or food service establishment shall be permitted to have a drive through facility/drive through window, and that any drive through facility located within Development Area A must be located on the rear of the building or side of the building which faces away from Bethel Street (meaning that drive through facilities or drive through windows, which are incidental and subordinate to any retail and service establishment located within Development Area A shall not be located on the Bethel Street side of the building, and must be located on the side of the building opposite Bethel Street).

SPECIFICALLY EXCLUDED USES IN DEVELOPMENT AREA A

Specifically excluded uses (uses which shall not be permitted) within Development Area A include the following:

- a. Package Liquor Stores (see definition below);
- b. Alcoholic Beverage Sales, other than as an “Accessory Use” or “Ancillary Use” as defined below, by a drugstore, speciality food store, grocery store, specialty wine shop or similar establishment, as described in Section 1.1 above;
- c. Restaurants, cafés, cafeterias or similar establishments with drive through windows [no such establishment may have a drive through facility]; drive through facilities/drive

through windows for restaurants, cafés, cafeterias or food service establishments being a specifically excluded, prohibited use;

- d. Convenience Stores, automobile service stations and vehicle repair facilities;
- e. Payday loans or payday loan businesses, check cashing establishment or title loan business or any comparable business;
- f. Residential uses of any kind, nature or description;
- g. Adult bookstores, adult movie theaters and similar establishments of any kind;
- h. Adult entertainment facilities;
- i. Outdoor sale or display of any merchandise, including but not limited to nursery stock, lumber or any other merchandise or materials;
- j. Carwashes, coin operated, automatic or otherwise;
- k. Outdoor sale or display of any merchandise, included but not limited to plants, nursery stock, lumber or any other merchandise or material;
- l. Lumber yards, home equipment stores (e.g. Westlakes or Lowes);
- m. Bars and cocktail lounges, other than as an accessory use or ancillary use for a restaurant or café, meaning freestanding bars and cocktail lounges shall not be a permitted use and shall be a specifically excluded use, and meaning that any bar or cocktail lounge associated with any restaurant, café or food service establishment must be incidental and subordinate to the principal food sales and service business of the establishment;
- n. No drive through windows or facilities shall be permitted for any restaurants, cafés, cafeterias or food service establishments, including drive through facilities that would be accessory to the primary business operation of a restaurant, café, cafeteria or similar business operation;
- o. Freestanding fast-food restaurants or similar restaurants with drive through facilities.

II. Proposed Permitted Land Uses for Property within Development Area B:

2. Permitted uses within Development Area B shall include all Permitted Uses permitted within Development Area A and shall further include the following additional Permitted Uses within Development Area B:

2.1 Hospitals and clinics for human beings, medical or dental clinics and medical laboratories.

ACCESSORY USES

The same Accessory Uses as are to be permitted within Development Area A shall be permitted within Development Area B, provided that the restriction that a drive through facility or drive through window which is incidental and subordinate to any retail and service establishment not be located on the Bethel Street side of the building shall not be applicable within Development Area B or Development Area C.

SPECIFICALLY EXCLUDED USES IN DEVELOPMENT AREA B

Specifically excluded uses (uses which shall not be permitted) within Development Area B shall include all specifically excluded uses for Development Area A, as described above.

III. Permitted Uses With Development Area C

3. Permitted uses within Development Area C shall be all of the Permitted Uses within Development Area A and all of the Permitted Uses in Development Area B, plus the following additional Permitted Uses shall be permitted within Development Area C:

3.1 Hospitals for small animals, if within an enclosed building;

3.2 Hotels or motels;

3.3 Mortuaries, which may include a crematory;

3.4 Pet stores and grooming shops for small animals;

3.5 Rental services;

3.6 Hardware stores and home improvement stores, such as, by way of example, Westlakes or Lowes, which may include sales of lumber and nursery stock, including outdoor display of same (e.g., Westlakes or Lowes);

3.7 Outdoor sales and displays of plants, nursery stock and similar items of a grocery store or supermarket or other retail establishment, as an incidental part of its business (e.g., Hy-Vee, Gerbes);

3.8 Food service establishments, such as restaurants, cafés, cafeterias or similar establishments, which have an associated drive through facility as an incidental part of the primary or principal business of the establishment; provided that such food service establishment must be located within of a multi-tenant building and such drive through facility must be incidental to, and subordinate to, the principal business of such food service establishment;

ACCESSORY USES

Subject to the exclusions of certain specific uses set forth under “Excluded Uses” set forth below, customary accessory uses which are incidental and subordinate to the principal business of a Permitted Use as described above shall be permitted; provided, however, as follows:

a. Drive through facilities for retail and service establishments shall be permitted as an accessory use only where such drive through facilities are incidental and subordinate to the principal business of the establishment;

b. A restaurant, café, cafeteria or other food service establishment may have a drive through facility in Development Area C, only where such food service establishment is a part of a multi-tenant building and such drive through facility is incidental and subordinate to the principal business of such food service establishment.

EXCLUDED USES WITHIN DEVELOPMENT AREA C

Specifically excluded uses (uses not be permitted) within Development Area C shall be the same uses as are Excluded Uses in Development Area A and Development Area B; provided, however, that the following **SHALL NOT BE “EXCLUDED USES”** within Development Area C:

a. Outdoor sale or display of any merchandise, including but not limited to nursery stock, lumber or any other merchandise or materials;

b. Outdoor sales and displays of plants, nursery stock and similar items of a grocery store or supermarket or other retail establishment, as an incidental part of its business (e.g., Hy-Vee, Gerbes);

c. Lumber yards and home equipment stores and hardware stores (e.g. Westlakes or Lowes or comparable establishments);

d. A restaurant, café, cafeteria or other food service establishment which has a drive through facility, where such food service establishment is a part of a multi-tenant building and such drive through facility is incidental and subordinate to the principal business of such food service establishment.

IV. Permitted Uses within Development Area D

4. Permitted Uses within Development Area D shall be apartment houses/multifamily dwelling structures, and private amenities for the residents.

V. Building Areas and Units

5.1 Development Areas A, B and C

- a. Maximum Gross Building Area for Development Area A & B = 35,000 sq. ft.
- b. Maximum Gross Building Area for Development Area C = 130,000 sq. ft.

5.2 Development Area D – Dwelling Units

- a. Type = Multifamily dwelling units
- b. Maximum Number of Units = 93 units
- c. Maximum Development Density = 17 units/acre
- d. Accessory buildings, such as storage sheds/garages, pergolas, pavilions or gazebos = 4

VI. Definitions and Further Provisions

6. For purposes of this document, the following terms shall have the following meanings and the following provisions shall be in effect:

6.1 Alcoholic Beverage Sales as an Ancillary Use. The sale of Alcoholic Beverage by the package, as an “Ancillary or Accessory Use,” shall mean the sale of Alcoholic Beverages in the package, for off premises consumption, by a drugstore, grocery store or speciality food store, or food market, which derives substantial revenues from the sale of other merchandise; provided, however, that “Package Liquor Stores” and Convenience Stores shall be specifically excluded uses and shall not be allowed at any location within the Property. The sale of Alcoholic Beverages as an Ancillary or Accessory Use would include the sale of Alcoholic Beverages:

- a. At an establishment, such a grocery store, speciality food store, market, specialty food establishment, drug store or delicatessen, or similar establishment, which sells Alcoholic Beverages as an incidental component of its primary or principal business, and which generates substantial revenues from sales of other products, such as, by way of example only: a CVS Store, a Walgreen Store, or a Hoss’s Market;
- b. Sale of wine at a specialty wine or wine and cigar store, such as, by way of example only, the former Hemingways, Top Ten Wines, and Joe’s Wine and Spirits in Cherry Hill and similar establishments.

6.2 “Package Liquor Stores.” “Package Liquor Stores” which shall be an excluded use throughout the entire property, shall be defined as follows: “Package Liquor Stores” -

a retail store which derives the great majority of its revenue from the sale of Alcoholic Beverages, or in which the sale of Alcoholic Beverages is the principal or primary business, with minimal revenues being derived from the sale of other products,” or in which the sale of Alcoholic Beverages, in the package, is the principal or primary business. A Package Liquor Store shall further include any store which includes the word “liquor” in its primary business name [e.g., Arena Liquors]. Examples of Package Liquor Stores that would be excluded uses are the following existing establishments or former establishments: Arena Liquors, Berbeglia, and the former Brown Derby, all of which sell Liquor (Scotch, bourbon, gin, vodka) as well as wines and beer, and do so as their principal or primary business.

DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT ("this Agreement") is made and entered into this _____ day of _____, 2011, by and between **the City of Columbia, Missouri**, a municipal corporation of the State of Missouri ("City" or "the City") and **Jeffrey E. Smith Investment Co.** ("Owner" or "the Owner").

WITNESSETH:

BACKGROUND RECITALS ["Recitals"]

This Agreement is made and entered into by the City and the Owner (who may hereinafter be collectively referred to as "the Parties" and individually as a "Party") in view of the following facts, matters and circumstances:

Owner is the owner of a tract of land ("the Land") consisting of 22.52 acres, more or less, situated in the southeast quadrant of the intersection of Nifong Boulevard and Bethel Street in the City of Columbia, Missouri, which is legally described as the following described situated in Boone County, Missouri:

The Land is legally described under the heading "Complete Tract" on **Exhibit A**, which is annexed to this Agreement and is incorporated into this Agreement by reference the same as though fully set forth in this Agreement verbatim.

The Land has, pursuant to an application of the Owner for rezoning of the Land from Zoning Districts O-1, R-1, R-2 and R-3, been placed in Zoning Districts PUD-17, and C-P, pursuant to an Ordinance adopted by the City Council of the City as follows:

Council Bill No. _____
Adopted by City Council on the _____ day of _____, 2011

Such Ordinance may be referred to herein as "the Ordinance."

The Ordinance placed portions of the Land in Zoning Districts PUD-17 and C-P as follows:

That part of the land placed in Zoning District PUD-17 is legally described on **Exhibit A** to this Agreement (which is incorporated into this Agreement the same as though fully set forth in this Agreement verbatim) under the heading/caption "PUD Tract" and consists of the 5.49 acres of the Land described under the heading/caption "Proposed PUD Tract"

That part of the Land placed in Zoning District C-P, consisting of 17.03 acres, more or less, is legally described on such **Exhibit A** under the heading/caption "Proposed C-P Tract."

The Ordinance adopted by the City Council, as hereinabove described in these Recitals, requires of the Owner that the Owner enter into this Development Agreement with the City, pursuant to which the Owner agrees with the City to satisfy certain requirements, and to construct certain streets and other improvements, all as hereinafter described in this Agreement.

This Agreement is approved by the City Council as a part of the Ordinance. The Owner executes this Agreement, as it is required to do by the Ordinance, and the City executes this Agreement pursuant to authority granted by the City Council by way of the Ordinance.

NOW, THEREFORE, in view of the foregoing Recitals and in consideration of the mutual promises, declarations, covenants and agreements of the Parties hereto, as hereinafter set forth, the Parties hereto do hereby mutually promise, declare, covenant, state and agree as follows:

1. Agreements to Run With the Land. The provisions of this Development Agreement shall constitute covenants running with the entirety of the Land, including:

- a. That part of the Land which has, by the Ordinance, been placed in Zoning District PUD ("the PUD Tract"); and
- b. That part of the land which has, by the Ordinance, been placed in Zoning District C-P (Planned Business District) ["the C-P Tract"].

All of the Land which is legally described on **Exhibit A** to this Agreement shall be subject to this Agreement, and the intention of the Parties is that all of the provisions of this Agreement shall run with the entirety of the Land described on **Exhibit A**, including that part described as the "C-P Tract" on **Exhibit A**, and that part of the Land described as the "PUD Tract" on **Exhibit A**. The provisions of this Development Agreement shall, therefore, constitute covenants running with the entirety of the Land.

2. "C-P Development Plans" and "PUD Development Plans". All references in this Agreement to a "C-P Development Plan" or "C-P Development Plans" shall mean those Development Plans which are, hereafter, from time to time, submitted to the City in conformity with the requirements of Section 29-17 of the Revised Ordinances of the City for approval by the City, in order that various portions of the C-P Tract can be developed pursuant to approved Development Plans which are approved by the City in conformity with the requirements of such Section 29-17. All references to a "PUD Plan" shall mean those Development Plans which are, hereafter, from time to time submitted to the City in conformity with the requirements of Section 29-10 ("Planned Unit Development") Ordinances of the City, in order that the PUD Tract may be developed pursuant to PUD Development Plans which are approved by the City pursuant to such Section of the City's Ordinances. Any reference to "Development Plans" hereinafter set forth in

this Agreement shall refer to both of (and each of) all such C-P Development Plans and PUD Development Plans.

3. Site Signage. Each Development Plan submitted by the Owner or developer of any part of the C-P Tract shall provide that site signage shall be approved by the City Council as a part of the Development Plan, as provided for by Section 29-9(d)(9) of the Revised Ordinances of the City.

4. Traffic Impact Study Requirement. A Traffic Impact Study shall be submitted with the first PUD Development Plan for the PUD Tract, or the first C-P Development Plan for the C-P Tract, as the case may be. Such Traffic Impact Study shall show the impact of the Development of the entire Property, meaning both the C-P Tract and the PUD Tract, at full development (meaning full build out). The purpose of this study shall be to define the impacts of the proposed development on the Nifong corridor, being Nifong Boulevard from Providence Road to Baurichter Lane, and the Bethel Street corridor, meaning Bethel Street from Diego Drive to Sudbury Drive. The study shall also define the improvements which are required to mitigate such impacts. For purposes of this paragraph 4, the term “impacts” shall mean those traffic impacts on such corridors, which are caused by additional traffic within such corridors that will be generated by the proposed development. Improvements within such corridors may be required if there will be a reduction in the level of service at any intersection within such corridor, as a result of the anticipated impacts of such additional traffic, such that the level of service (“LOS”) at such intersection will be reduced below Level D. If the Traffic Impact Study indicates that LOS at an intersection will be reduced below Level D, then, in such event, the Traffic Study shall describe the mitigating improvements which would be required to restore the LOS at the affected intersection to an LOS that is the greater of (i) LOS D, or (ii) that LOS which would exist at such intersection without the traffic impacts of the Development; meaning that mitigating improvements shall be required if the traffic impact of the Development will reduce the LOS at an affected intersection below Level D, and further meaning that, if the LOS at an affected intersection will be reduced below Level D, then the mitigating improvements shall be such as will restore that LOS to the greater of LOS D or that LOS which would exist without the impact of the Development.

5. Concerns of Public Works Department. The following concerns of the Public Works Department shall be dealt with the first Development Plan for the C-P Tract and shall be updated with each subsequent Development Plan:

a. All access issues for both Bethel Street and Nifong Boulevard will be coordinated with the Traffic Engineer of the City’s Public Works Department;

b. During the planning stage for each Development Plan, the Owner shall design or cause to be designed on site stormwater conveyance, detention and management features and facilities which will prevent any rise (resulting from the development) in the 100 Year Flood Plain Elevation at any location. Stormwater calculations will be provided which show the impact (with the planned facilities) to adjacent and downstream properties and infrastructure. The proposed development (taking into account the proposed new stormwater

conveyance, management and retention facilities) shall not cause any rise in the 100 Year Flood Plain at any location and calculations shall be provided to show that such will be the case;

c. Even though the stormwater flows, and existing problems which exist downstream from the Land may be improved by the construction, on the City's Land, of the stormwater detention/retention system provided for by paragraph 9 of this Agreement, the Owner shall nevertheless be required, with respect to the Land, the Development to be placed on the Land, and for each Development Plan for each development to be placed on the Land, to conform with all stormwater requirements of Section 12A of the City's Ordinances, and such Section 12A will be adhered to for the development of the Land regardless of the effects of stormwater improvements on adjacent tracts of land, including but not limited to the stormwater improvements on the City's Land which are provided for by paragraph 9 below.

6. Construction of Streets and Installation of Traffic Signals/Traffic Improvements.

a. The Owner will dedicate the right-of-way for the "Proposed Local Non-Residential Street (Public)," as shown on **Exhibit B** to this Agreement, which connects Nifong Boulevard to the proposed roundabout, and shall so dedicate such right-of-way by a plat within six (6) months following the date of the adoption of the Ordinance, unless such period of time is extended by agreement of the Owner and the City Council.

b. The Owner will, at its expense, subject to the following provisions of this Agreement, cause such proposed Local Non-Residential Street to be designed, and shall construct such Proposed Local Non-Residential Street (Public) and the roundabout at the southern terminus of such street, within twelve (12) months of the date of recording of the right-of-way dedication plat described in subparagraph a above, contingent upon the City's providing the right-of-way for that portion of the roundabout that is located within real estate owned by the City.

c. The Owner will, at its expense, subject to the following provisions of this Agreement, and concurrently with the construction of such Proposed Local Non-Residential Street (Public) located on its Land, and the entire roundabout, construct and install, to the City's design, within the City's land located to the east of the Owner's land that Proposed Local Non-Residential Street (Public) which leads east from the proposed roundabout to Peach Court/Peachtree Drive, thereby providing a complete roadway connection from Nifong Boulevard to Peach Court/Peachtree Drive.

d. The Owner, at the Owner's expense, shall cause to be designed (subject to the City's approval and the City's approval of the design must be obtained), a permanent traffic signal ("the Traffic Signal"), to be located at the intersection of the Proposed Local Non-Residential Street (Public) and Nifong Boulevard, including the actual signal, the controls for the signal, and all improvements required for the installation and mounting and support of the Traffic Signal [meaning that the Owner's design shall provide for the design of the Traffic Signal, and all of its parts and components, including but not limited to the controls and support for the Traffic Signal]. The Owner, at its expense, concurrently or upon completion of the

construction of the streets described in subparagraphs b and c above, shall install, pursuant to the requirements of the City and such approved design, the Traffic Signal at the intersection of the Proposed Local Non-Residential Street (Public) and Nifong Boulevard. In the context of this subparagraph d, “permanent” means that the Traffic Signal is installed with rigid, metal support poles rather than wooden poles and span wires. “Permanent” in this context does not mean that the Traffic Signal will never be relocated.

e. The City will provide the right-of-way for that portion of the roundabout which is located on the City’s property, and shall provide the right-of-way for the east-west Proposed Local Non-Residential Street (Public) which connects such roundabout to Peach Court/Peachtree Drive.

f. The City must approve of the new permanent traffic signal at the intersection, and the Owner’s agreement to construct the streets and to install the traffic signal are contingent upon this approval.

The Owner’s obligations to provide, at its expense, for the construction of the street improvements, roundabout and traffic circle, as hereinabove described in this paragraph 6, are subject to the provisions of paragraph 7 which appears below.

7. Computation of Credit for Sidewalk Improvements, to be Provided by the City.
The Director of the Department of Public Works of the City and the Owner’s engineers (Engineering Surveys & Services of Columbia, Missouri), shall consult with each other, in good faith, in seeking to determine the total amount of the costs which will be incurred by the Owner (hereinafter “the Credit Amount”) as follows:

a. The amount of the additional costs that will be incurred by the Owner in constructing to the City’s Non-Residential Public Street Standards and requirements, the proposed Local Non-Residential Street (Public), located on the City’s Land, which runs east to west, and which connects the proposed roundabout to Peach Court/Peachtree Drive, over and above that cost which would be incurred by the Owner had such street been constructed as a Residential Street (Public), as opposed to a Local Non-Residential Street; meaning that additional costs that will be incurred by the Owner as a result of the requirement that such street be a Local Non-Residential Street, as opposed to a Residential Street, shall be determined; and

b. The amount of the additional costs that will be incurred by the Owner in constructing, to the City’s Non-Residential Public Street Standards and requirements, the proposed Local Non-Residential Street (Public), located on the Owner’s Land, which runs north and south, and which connects the proposed roundabout to Nifong Boulevard, over and above that cost which would be incurred by the Owner had such street been constructed as a residential street (public), as opposed to a local non-residential street; meaning that the additional cost incurred by the Owner as a result of the requirement that such street be a local non-residential street, as opposed to a residential street, shall be determined.

The total of the Owner's costs as described in subparagraphs a and b above shall be the "Credit Amount." The Director of the City's Department of Public Works and the Owner's engineers shall consult with each other, in good faith, in seeking to determine the Credit Amount, but if there is a dispute or disagreement, the determination of the Director of the City's Department of Public Works shall govern, provided only that such Director acts reasonably and in good faith.

The Parties agree that the Director of the City's Department of Public Works and the Owner's engineers have consulted, and have determined that the appropriate "Credit Amount" shall be in the sum of Seventy-five Thousand Seven Hundred Seven Dollars (\$75,707). The Owner shall not be entitled to any credit for the Credit Amount, under paragraph 8 below, until the Owner has completed all of the improvements which the Owner is to complete under paragraph 6 above, to the City's satisfaction.

8. Construction of Sidewalk/Credit Amount to be Applied to Owner's Costs of Construction of Sidewalks. The City shall pay all of the costs for the placement of any sidewalks required by the City, which run alongside the east-west running proposed Local Non-Residential Street (Public) [that street which connects the roundabout to Peach Court/Peachtree Drive], and if the Owner installs such sidewalks, the City shall reimburse the Owner for all costs of installation of such sidewalks. The City, subject to the provisions of paragraph 7 above, shall bear the costs of the sidewalks, otherwise required by City Ordinance, running alongside the north-south proposed Local Non-Residential Street (that street which connects the roundabout to Nifong Boulevard) and the sidewalks otherwise required by ordinance which run alongside Nifong Boulevard on the north side of the Owner's proposed development, to the extent of (and only to the extent of) the Credit Amount; meaning that the City shall absorb the costs of these sidewalks to the extent of the Credit Amount, with the balance of the costs of such sidewalks being at the Owner's cost. If the Owner installs such sidewalks, then the City shall reimburse the Owner for the costs of such sidewalks running alongside the north-south proposed Local Non-Residential Street, and Nifong Boulevard, to the extent of (but only to the extent of) the Credit Amount. The Credit Amount shall not exceed the amount set forth in paragraph 7 above, which has been determined and agreed to by the Director of the City's Department of Public Works and the Owner's engineers.

9. Installation of Stormwater Detention/Retention System on City's Property. The Owner shall, at the City's expense (and pursuant to the City's design, which shall be provided by the City), install a stormwater detention/ retention system, on the City's Property, located to the east of the east property line of the Owner's land, which such City's Property is located on the north and south sides of the extension of the proposed Local Non-Residential Street (Public) connecting the roundabout to Peach Court/Peachtree Drive, and the Owner will do so concurrently with the construction of the proposed Local Non-Residential Street (Public) located on the City's land, which runs east from the proposed roundabout to Peach Court/Peachtree Drive. Upon the completion of the construction of such stormwater detention/retention system, as designed by the City, to the City's satisfaction, the Owner shall be reimbursed for its costs in installing such system; provided that such costs shall not exceed Eight Hundred Twenty Thousand Dollars (\$820,000), or such additional amount as shall be approved by the Director of

the City's Department of Public Works, and by ordinance adopted by the City Council which approves the additional amount of such costs, it being understood that any ordinance of the City Council approving additional costs can be adopted only if the City's Finance Director certifies that the additional funds are available and such funds are appropriated by the City Council, in accordance with law, from available funds. Such reimbursement shall be made to the Owner only when the street improvements to be constructed by the Owner pursuant to paragraph 6 of this Agreement are completed to the City's satisfaction, and the stormwater improvements described in this paragraph 9 are completed to the City's satisfaction.

10. Design. As described in paragraph 6d of this Agreement, the Owner shall provide the design for the Traffic Signal, and all of its parts and components (as described in such paragraph 6d). The Owner shall also design, to the City's specifications requirements, the roundabout which is to be constructed by the Owner pursuant to paragraph 6 of this Agreement. The City shall design the stormwater retention system described in paragraph 9 of this Agreement, and the east-west running street (the Local Non-Residential Street (Public), which connects the roundabout to Peach Court/Peachtree Drive). The Owner shall also design the north-south street. The City shall also design the stormwater improvement described in paragraph 9 of this Agreement. The Owner shall provide to the City, for its review and approval, all construction documents required for all roadway improvements which are to be designed by the Owner in order to show compliance with current City specifications (roadway and Stormwater). Coordination between the City and the Owner's designers for all improvements described in paragraphs 6, 8 and 9 of this Agreement shall be the responsibility of the Owner.

11. Easement to be Provided at Request of School District. The Owner shall consult with the school district of the City of Columbia, Missouri, meaning the Columbia, Missouri school district ("the District") prior to the submission of the first C-P Development Plan or PUD Plan Development Plan for the Land, and shall inquire of the District as to whether the District desires that it, the District, be able to install a thirty foot (30') wide private driveway (not a public street) extending south from the proposed roundabout, running alongside the easterly boundary of the Owner's Land, which such private driveway ("the Private Driveway") will provide a connection from the roundabout to the parking lots of the District which serve, among other things, Rock Bridge High School. If the District desires to construct such Private Driveway, then the Owner shall grant to the District an easement for the construction, keeping, use (by the District and its employees and students), maintenance, repair and replacement of such Private Driveway. Such Private Driveway, if installed, will provide access to and egress from such parking lot (by such employees and students), to and from the roundabout and the proposed public streets which are to be constructed pursuant to this Development Agreement. If the District desires that it have the ability to construct such Private Driveway, then:

- i. The District will pay the cost of construction of the Driveway;
- ii. The District must design and approve such Driveway;
- iii. The District will provide maintenance for and snow removal for such Driveway;

iv. The District's designers, who design the Private Driveway, and the Owner's engineers or designees and the Owner, shall work together, in good faith, in seeking to take all reasonable steps and actions which will prevent or curtail the parking of vehicles within or alongside such Private Driveway, as well as the parking of vehicles of teachers or students within the parking lots or parking facilities, to be placed within the Owner's Land, including the installation of curbs for the Driveway (which will prohibit or inhibit parking), and the installation of No Parking signage for the Driveway;

v. Unless the Driveway to be located within such easement is constructed within seven (7) years following the completion of the Proposed Local Non-Residential Street (Public) which connects to Nifong Boulevard, and the roundabout, the offer to provide and establish such easement shall cease and expire. Furthermore, if the Driveway located within such easement by the District, and such driveway is ever abandoned by the District, then the easement for the driveway shall be canceled, terminated and rendered of no further force or effect.

12. Prevailing Wage. Prevailing Wage shall be paid for the construction of all public improvements which are to be constructed pursuant to this Agreement. This paragraph shall apply only to the public improvements specifically described in this Agreement, and then to the extent prevailing wage is required to be paid by applicable law.

13. Contingency. All of the Owner's agreements to construct the streets, roundabout and traffic signal, described in paragraph 6 of this Agreement, and the offsite retention/detention facility described in paragraph 9 of this Agreement, and to provide the easement for the Private Driveway hereinabove described in paragraph 11 of this Agreement, are all contingent and conditioned upon the City's permitting the installation of the permanent signalized intersection at the proposed location of the future Proposed Local Non-Residential Street (Public) and Nifong Boulevard. If such signal placement is approved, the Owner shall be required to proceed in accordance with all of the requirements of paragraphs 6, 9 and 11 of this Agreement, within the specified time limits set forth in such paragraphs.

14. Construction of Culvert East to West Along Nifong. The Owner will, at the Owner's expense and pursuant to the requirements the City and any other governmental authority having jurisdiction, construct a box culvert, encasing the stream/drainageway/ditch which runs along the south side of Nifong Boulevard, from east to west, in order that, in the future, when the City desires to implement its plans to widen and improve Nifong Boulevard, and to improve the Nifong/Bethel intersection, the City shall be able to go forward with such widening and improvements without any need to construct such culvert, or to obtain any U.S. Army Corps of Engineers permits to construct such culvert, and in order that the City's intended street improvements and intersection improvements may go forward without interference by the stream/ditch/drainageway. The Owner will consult with and work closely with the City's Public Works Department in order to be certain that all necessary rights-of-way for the City's intended Nifong Boulevard improvements and Bethel/ Nifong intersection improvements are available and, if required, will provide such additional rights-of-way as shall be required for these improvements.

15. References to Owner. All references in this Agreement to the “Owner” shall include the Owner and the Owner’s successors in ownership of each and every part of the Land. Each and every owner of each and every part of the Land shall be bound by this Agreement and all of the provisions of this Agreement.

16. Recording. Either the Owner or the City may cause this Development Agreement to be recorded in the Real Estate Records of Boone County, Missouri, at the cost and expense of the recording Party.

17. Amendments. Any amendment to this Agreement must be in writing and must be executed by the City and the Owner, and any future owner of any part of the Land who would otherwise be obligated to perform any of the requirements imposed upon the Owner by this Agreement. Oral modifications or amendments of this Agreement shall be of no force or effect.

18. Entire Agreement. This Agreement contains the entire and complete agreement between the City and the Owner with respect to the requirements imposed upon the Owner for the providing of certain rights-of-way, and the construction and installation of certain improvements, all as hereinabove described in the Recitals for this Agreement and the above numbered paragraphs of this Agreement.

IN WITNESS WHEREOF, the Parties have executed this Agreement on the day and year first above written.

CITY:
City of Columbia, Missouri

By: _____
Name Printed: _____
City Manager

Approved as to form:

Fred Boeckmann, City Counselor

CERTIFICATION:

I hereby certify that this contract is within the purpose of the appropriation to which it is to be charged, Account No. _____, and that there is an unencumbered balance to the credit of such appropriation sufficient to pay therefor.

John Blattel, Director of Finance

OWNER:

Jeffrey E. Smith Investment Co.

By: _____
Name Printed: _____
its _____

Attachments:

Exhibit A - Legal descriptions

Exhibit B - Site Plan

March 16, 2011



Rockbridge Subdivision Block VIII

Timothy A. Reed
3/16/2011

Complete Tract

Two lots located in the southwest quarter of Section 25 T48N R13W and in the northwest quarter of Section 36 T48N R13W, in Columbia, Boone County, Missouri, being Lot 1 and Lot 2 Rockbridge Subdivision Block VIII, recorded in plat book 20 page 72 of the Boone County records.

Proposed PUD tract

A tract of land located in the northwest quarter of Section 36 T48N R13W, in Columbia, Boone County, Missouri, being part of Lot 1 and Lot 2 Rockbridge Subdivision Block VIII, recorded in plat book 20 page 72 of the Boone County records, described as follows:

Beginning at the southwest corner of Lot 2 Rockbridge Subdivision Block VIII, thence N 3°18'00"W, along the westerly line thereof, 330.83 feet; thence leaving said line, N 89°56'10"E 733.77 feet; thence S 0°03'50"E 330.30 feet to the southerly line of Lot 2 Rockbridge Subdivision Block VIII; thence S 89°56'10"W, along said line, 715.10 feet to the beginning and containing 5.49 acres.

Proposed CP tract

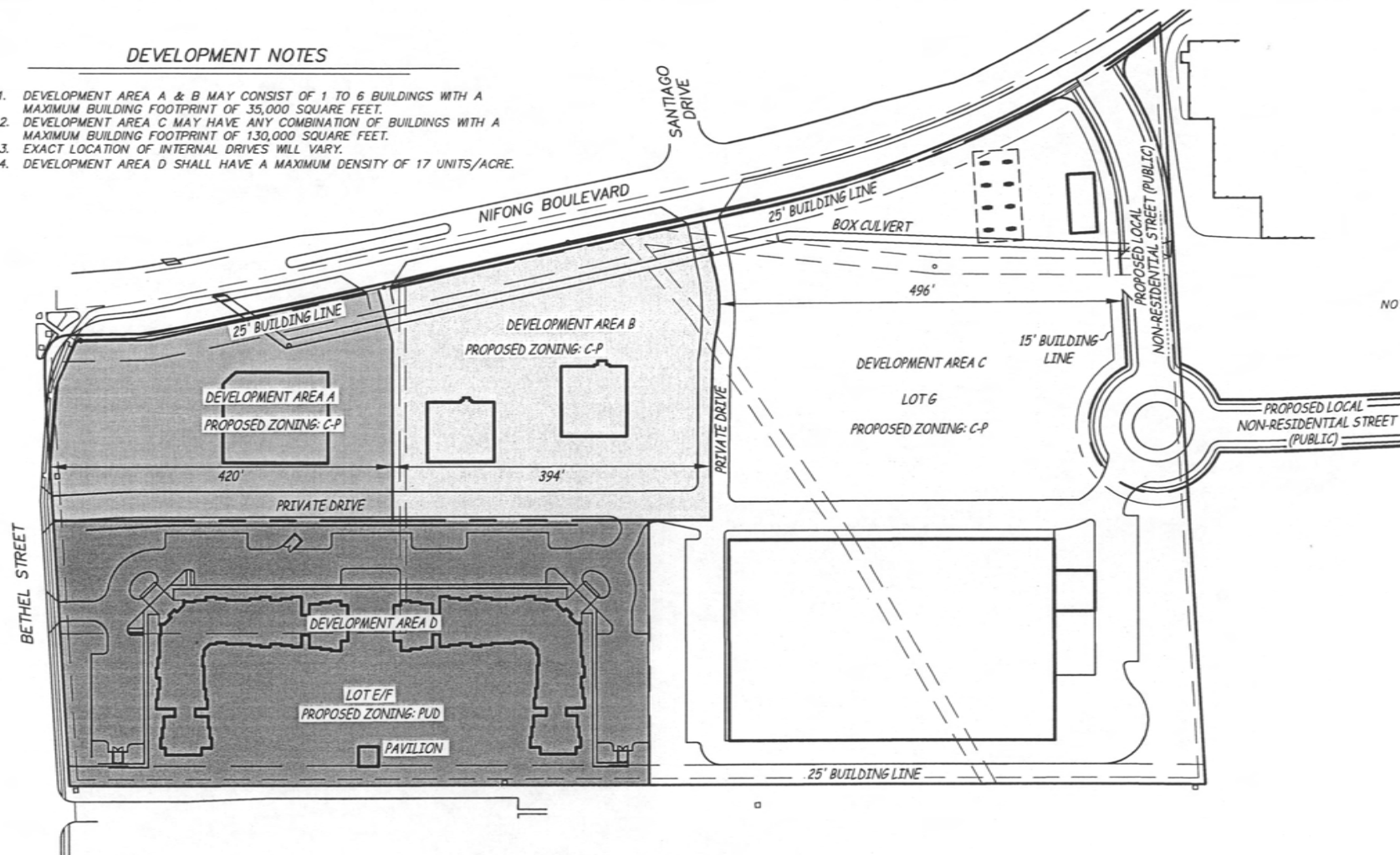
A tract of land located in the southwest quarter of Section 25 T48N R13W and in the northwest quarter of Section 36 T48N R13W, in Columbia, Boone County, Missouri, being part of Lot 1 and Lot 2 Rockbridge Subdivision Block VIII, recorded in plat book 20 page 72 of the Boone County records, described as follows:

Beginning at the southeast corner of Lot 2 Rockbridge Subdivision Block VIII, thence along the southerly line thereof, N 89°24'00"W 98.75 feet; thence S 89°56'10"W 585.39 feet; thence, leaving said line, N 0°03'50"W 330.30 feet; thence S 89°56'10"W 733.77 feet to the westerly line of Lot 1 Rockbridge Subdivision Block VIII; thence along the lines of said Lot and Lot 2 Rockbridge Subdivision Block VIII, N 3°18'00"W 151.78 feet; thence along a curve to the right, having a radius of 730.94 feet, a distance of 52.36 feet, the chord being N 1°15'00"W 52.35 feet; thence along a curve to the right, having a radius of 30.00 feet, a distance of 46.11 feet, the chord being N 44°53'50"E 41.70 feet; thence N 88°55'50"E 98.55 feet; thence N 77°45'40"E 762.44 feet; thence along a curve to the left, having a radius of 1315.95 feet, a distance of 552.70 feet, the chord being N 65°43'50"E 548.65 feet; thence S 3°18'00"E 953.81 feet to the beginning and containing 17.03 acres.

"EXHIBIT A"

DEVELOPMENT NOTES

1. DEVELOPMENT AREA A & B MAY CONSIST OF 1 TO 6 BUILDINGS WITH A MAXIMUM BUILDING FOOTPRINT OF 35,000 SQUARE FEET.
2. DEVELOPMENT AREA C MAY HAVE ANY COMBINATION OF BUILDINGS WITH A MAXIMUM BUILDING FOOTPRINT OF 130,000 SQUARE FEET.
3. EXACT LOCATION OF INTERNAL DRIVES WILL VARY.
4. DEVELOPMENT AREA D SHALL HAVE A MAXIMUM DENSITY OF 17 UNITS/ACRE.



ROCKBRIDGE SUBDIVISION BLOCK VIII
CONCEPTUAL DEVELOPMENT & REZONING EXHIBIT
COLUMBIA, MISSOURI
FEBRUARY 23, 2011



Engineering Surveys & Services

1113 Fay Street
 Columbia, Missouri
 573 - 449 - 2646

Missouri Engineering Corporation # 200400501R

11701

Source: Timothy Teddy**FISCAL and VISION NOTES:**

City Fiscal Impact Enter all that apply:	
\$0	City's current net FY cost.
\$0	Amount of Funds Already appropriated
\$0	Amount of budget amendment needed
\$0	Estimated 2 yr net costs:
\$0	One-time
\$0	Operating / On-going
Program Impact:	
N	New program/ agency (Y/N)
N	Duplicates/expands an existing program (Y/N)
N	Fiscal impact on any local political subdivision (Y/N)
Resources Required:	
N	Requires add'l FTE personnel? (Y/N)
N	Requires additional facilities? (Y/N)
N	Requires additional capital equipment? (Y/N)
Mandates:	
N	Federal or state mandated? (Y/N)
Vision Implementation Impact Enter Below All That Applies: Refer to Website:	
Y	Vision Impact? (Y/N or if N, go no further)
5	Primary Vision, Strategy and/or Goal Item#
5.3	Secondary Vision, Strategy and/or Goal Item#
Task #	FY10/FY11 Implementation Task#

TO: City Council
FROM: City Manager and staff
DATE: August 8, 2011
RE: Jeffery E. Smith Investment Co. rezoning – Nifong Boulevard and Bethel Street (Case # 11-34)

EXECUTIVE SUMMARY:

A request by Jeffery E. Smith Investment Company to rezone approximately 22.50 acres from R-1, R-2, R-3 (single-family, two-family, and medium density multi-family residential) and O-1 (office) districts to PUD 17 (planned residential up to 17 unit/acre) and C-P (planned business). The property is located at the southeast corner of Nifong Boulevard and Bethel Street. (Case #11-34)

DISCUSSION:

This is a request to rezone approximately 22.50 acres from a mixture of residential and office districts to planned residential and commercial districts. Approximately 5.50 acres located in the southwestern corner of the site are proposed to be rezoned PUD 17 and developed with multi-family housing similar to that currently developed at Bethel Ridge 1 and 2, located to the north of Nifong Boulevard behind First Community State Bank. Density within the PUD section is restricted to 93 total units.

The remaining 17 acres of the site is proposed for planned business (C-P zoning) and is broken into three (3) development areas – A, B, C. Total gross floor area (GFA) of the commercial development is restricted to 165,000 square feet – Areas A and B (35,000) and Area C (130,000). The proposed land uses/development intensity within these development areas has taken into account adjacent development features and intensity. Area A, closest to existing residential, is the most restricted in terms of allowed land uses/development intensity and Area C, adjacent to existing C-1 and C-P zoning, is the least restricted in terms of land uses/development intensity.

A full list of proposed uses within each development area is shown in the attached Statement of Intent, dated July 21, 2011. The proposed commercial land use mixture on the 17 acres is intended to create a neighborhood center similar to that existing at the intersection of Nifong and Forum boulevards. The proposed use mixture is less intense than that existing to the east and is consistent with those uses allowed in the C-P to the north.

Accompanying this rezoning request is a “development agreement” that provides specific developer obligations for public street, drainage, and traffic signal installations. As part of the public input process leading up to the Planning Commission’s hearing, concerns were expressed regarding existing traffic congestion and drainage issues. Many of these concerns are directly related to prior development - not the subject site or its request to rezone. However, the applicant acknowledged that the proposed development would create additional impacts and proposed the attached development agreement with the City. The agreement will result in the applicant constructing two new public streets, less sidewalks (at their expense) and regional stormwater detention on City owned property (at the City’s expense) as

well as installing a new permanent traffic signal on Nifong Boulevard west of Peachtree Drive instead of the City installing a temporary signal at the existing intersection of Peachtree Drive and Nifong Boulevard.

The development agreement further includes provisions that specify requirements for the preparation of a traffic study, obligations to maintain the current level of service (LOS) at all intersections affected by the proposed development, and the intention to offer the Columbia Public Schools access to the proposed new public street running through the development for access to its parking lots at Rockbridge High School as a means of ingress/egress once the existing Providence Road cross-over to the frontage road is closed to northbound traffic.

The proposed improvements contained within the development agreement do not exempt the applicant or their subsequent developers from meeting the current stormwater requirements for the subject site. Upon submission of individual development plans the then current stormwater regulations will be applied to ensure proposed construction is compliant with adopted policies. The proposed improvements contained within the development agreement are intended to address existing deficiencies relating to traffic management and drainage.

The proposed rezoning will limit the uncertain nature of development on the subject 22.50 acres of land. As currently zoned, the site can be developed with approximately 311 multi-family units and a mixture of office uses. Additionally, since this property is a "legal lot" no additional public improvements could be obtained from the developer prior to permit issuance for new construction. Furthermore, the proposed PUD and C-P zoning are consistent with the "Employment District" classification of the Metro 2020 plan.

On August 4, 2011, the Planning and Zoning Commission held its public hearing and voted (5-1) to approve the project and the accompanying development agreement. Commissioners commented on the benefit of having planned zoning and the value of the proposed public improvements addressed within the development agreement. The dissenting Commissioner expressed concern with the density of the multi-family development and potential access issues it would create as reasons for not supporting the request. One individual from the public spoke in favor of the project as well as the applicant's agents. Two letters and a petition from residents of Bedford Walk opposing the request were submitted prior to the meeting.

A copy of the staff report, locator maps, statement of intent, development agreement, and meeting excerpts are attached for your review

FISCAL IMPACT:

This request will generate a one-time estimated \$895,707 fiscal impact associated with the installation of regional detention on City-owned land east of the project site and construction of public sidewalks along the proposed public streets within the development. These expenditures will be off-set by the dedication of all necessary public rights-of-way, new signal installation along Nifong Boulevard, and enclosure of the existing open drainage culvert located on the south side of Nifong Boulevard. Construction of the two public streets and new signal are shown as a \$3,000,000 project expenditure within the 2012 CIP. Allocation and timing of such payments are addressed within the proposed development agreement.

Long-term fiscal impact will be limited. Public services installation will be the developer's responsibility and will be off-set by user fees and the subject site will generate higher tax collections (property and sales) than received under current zoning.

VISION IMPACT:

The proposed rezoning will provide the opportunity to meet Vision statement # 5 and Vision goal 5.3 of the Imagine Columbia's Future Vision. The proposed rezoning provides for a diverse, mixed-use, walkable and bicycle friendly environment and will provide opportunities to install adequate infrastructure. The public input process and the proposed development agreement have further reinforced the intent of Vision statement # 5 by allowing this proposal to be through which this development has be development agreement also affords and include a an open, inclusive, transparent, predictable, and accountable planning process with fair allocation of costs.

In relation to achieving Goal 5.3, the proposal will permit a range of housing options and prices; that are within walking distance of amenities such as schools; places of worship, shopping and recreation facilities; and that are supported by citywide bicycle, pedestrian, and transit systems.

SUGGESTED COUNCIL ACTIONS:

Approval of the rezoning, statement of intent, and development agreement as recommended by the Planning and Zoning Commission.

**AGENDA REPORT
PLANNING AND ZONING COMMISSION MEETING
August 4, 2011**

SUMMARY

A request by Jeffery E. Smith Investment Company (owner) to rezone approximately 22.50 acres from R-1, R-2, R-3 (single-family, two-family, and medium density multiple-family residential) and O-1 (office) districts to PUD 17 (planned residential up to 17 dwelling units/acre) and C-P (planned business). The property is located at the southeast corner of Nifong Boulevard and Bethel Street. (Case # 11-34)

REQUESTED ZONING

C-P (planned business) and PUD 17(planned residential up to 17 dwelling units/acre), with the following development restrictions identified in the applicant's Statement of Intent:

CP Statement of Intent (summary)

	Area A	Area B	Area C
a. Proposed uses	See attached Statement of Intent		
b. Maximum gross building floor area	35,000 sq. ft.		130,000 sq. ft.
c. Maximum building height	45-feet		
d. Minimum maintained open space (% of total site)	15%		

PUD Statement of Intent (summary)

a. Proposed uses	Residential
b. Types of dwelling units, & accessory buildings	Multi-family dwelling units, storage sheds/garages, pergolas, pavilions or gazebos
c. Maximum number of dwelling units	93 units
d. Maximum building height	45-feet
e. Parking	Total parking spaces: 150 Parking ratio (spaces/dwelling unit): 1.6
f. Minimum maintained open space	% of total site in open space: 15% % landscaping: 15% % natural vegetation: NA
g. Amenities	Amenities to be provided within buildings – exact amenities to be determined
h. General project description	Minimum lot size: 2 acres Minimum setbacks from lot lines: 25' along Bethel and school property lines, 10' internal, and 0' along retaining walls. Minimum setbacks between buildings: NA

DISCUSSION

Current development potential (what's permitted today) -

The subject site is currently zoned to permit a mixture of residential and office uses. R-1, R-2, and R-3 zoning exist in the northwest corner of the site covering approximately 4.2 acres. The balance of the site, 18.3 acres, is zoned O-1 and can be developed with a broad spectrum of office uses as well as R-3 multi-family development without additional Planning Commission or Council review. The 18.3 acres of O-1 zoned land could be developed with as many as 311 multi-family units. Additionally, since the property is currently a "legal lot" no platting is required to obtain a building permit meaning no additional right-of-way or other public improvements would be obtained if the property were to develop as presently zoned.

Proposed development potential (what's desired) -

The request presented proposes to develop the site with a mixture of planned commercial and residential uses. C-P zoning is proposed on approximately 17 acres of the site generally located along the Nifong Boulevard frontage. This acreage is proposed to be broken into three (3) development areas (A, B, and C) as shown on the attached "conceptual" site plan. The most restrictive and least intense (in terms of usage) would be on the western boundary of the property (Area A) adjacent to Bethel Street and the least restrictive and most intense (in terms of usage) would be on the east side of the site (Area C) adjacent to the existing C-1 and C-P zoning.

Approximately 5.5 acres in the southwest corner of the site is proposed to be zoned PUD 17 (Area D). If approved a maximum of 93 multi-family units could be developed on the acreage. This site backs to Gentry Middle School and is proposed to provide a buffer/transition zone between the proposed commercial, school property, and adjacent residential development to the west. The applicant indicates that this area is intended to be developed with multi-family structures similar to that found at Bethel Ridge 1 and 2 to the north. However, the Statement of Intent (SOI) does not and cannot restrict the type of tenant that may occupy these units – they could become traditional multi-family dwellings.

The property's location at the intersection of Nifong and Bethel places it in an area of high traffic visibility. The Metro 2020 Plan identifies the site as lying within an "employment district" which would support the proposed uses expressed in the SOI. The development concept presented in the SOI and shown on the "conceptual" plan is geared toward creating a neighborhood commercial center similar to that located at the intersection of Nifong and Forum boulevards.

Adjacent property owner concerns & issues -

The proposed intensity of development has been expressed as a concern by adjacent property owners due to its potential to significantly increase traffic congestion and compromise safety at the adjacent middle school. Additionally, concern has been expressed that development of the site will increase stormwater issues downstream – principally in the Bedford Walk neighborhood. These issues are not solely the result of the subject site's proposed rezoning, however, are surfacing due to this request being submitted for public consideration.

The issues expressed as concerns are a result of prior development. The stormwater issues can be traced back to the upstream development in the Peachtree Business Center which occurred before the current stormwater regulations existed. The traffic congestion along the Nifong corridor is a result of accelerated development in the surrounding area ahead of allocated funding for roadway improvements.

Applicant's proposed solution – Development Agreement

Acknowledging City funding limitations and adjacent property owners and staff concerns about making existing conditions worse, the applicant revised the proposed SOI to eliminate several objectionable uses and has proposed a development agreement to assist in mitigating traffic and stormwater issues. These documents were presented and discussed with the public at two developer lead public input meetings that occurred in May and June. The multiple requests to table action on this proposal were to allow for these documents to be further refined to address staff and public concerns.

As noted, the development agreement includes specific provisions dealing with mitigating existing stormwater conditions. The agreement proposes the construction of stormwater retention facilities upstream of the development site in the Peachtree Business Center on City property located west of Peach Court. These improvements will address the issue of uncontrolled runoff crossing the subject development site - a primary component of the existing stormwater problems. The development site, in accordance with the provisions of Chapter 12A, will still be required to retain its own stormwater on-site and be required to ensure that post-development flow rates do not exceed pre-development rates. The timing of these improvements is proposed to commence no later than 18 months following Council approval of the petition and would occur concurrently with the construction of the north-south and east-west roadway shown on the "conceptual" site plan.

The development agreement also contains provisions aimed at addressing traffic congestion and safety concerns surrounding the site. As noted above, the proposed "conceptual" site plan shows a north-south and east-west roadway that would be built as a local non-residential street connecting Peachtree Drive to a new signalized intersection at Nifong Boulevard, east of Santiago Drive. The installation of the signal at this location is intended to better manage the flow of vehicles leaving Rockbridge High School, the Peachtree Business Center, and the subject site.

Initially, the new traffic signal was to be installed temporarily at the existing intersection of Peachtree Drive and Nifong Boulevard and then relocated to the proposed location when construction of the proposed non-residential street was completed. The submission of this proposal affords the opportunity to accelerate the construction and installation process of these improvements which in turn would assist in addressing some of the existing congestion issues.

Additionally, the development agreement includes provisions that specify a traffic study will need to be completed for the subject site. The study would need to identify build-out impacts upon the existing roadway corridors and provide recommendations for ensuring existing conditions are not further deteriorated. The agreement's provisions assure a form of mitigation will be provided should the development deteriorate the existing conditions, which is likely. If the site were to develop as

currently zoned there is no mechanism to assure the developer would have to mitigate the impacts that new development would create.

While the development agreement provides provisions for mitigating the impacts of the proposed development, the permanent solution is to increase the capacity of Nifong Boulevard through widening and reconstruction. The City has plans to pursue this solution beginning in 2015 with design plans and potential construction in 2020. Both actions are based on future transportation tax ballot issues.

Land use impacts –

The proposed development would result in the opportunity to develop a maximum of 165,000 square feet of commercial space and 93 residential units. Based on the site's location and the Metro 2020 Plan's land use designation as an "employment district" this proposal is viewed to be generally compliant with the principles, policies, and guidelines for such districts. It should be noted that employment districts are recommended to be zoned a "planned" district when adjacent to "residential districts" such as the Bedford Walk neighborhood. Additionally, it is recommended that employment districts incorporate elements of high-density residential development.

The site's proposed uses have been evaluated against the C-P to the north and in relationship to their placement on the development site within either development area A, B, C, or D. This analysis finds that the proposed uses for each area offer a lessening of intensity as one proceeds across the site from east to west. This proposed segregation of use intensity is viewed as a necessary transition to ensure there is no further expansion of the more intense highway oriented retail or service uses, existing east of the site, further westward toward the existing residential neighborhoods west of Bethel Street. To further reinforce the desire for a neighborhood service center, the SOI specifically excludes free-standing drive-through establishments, gas stations, and bars/taverns as permitted uses. These exclusions are compatible with the development to the north.

As development of the site is proposed as a "planned" environment, no additional improvements will be possible without additional review of final development plans. This added layer of regulation will provide opportunity for adjacent property owners, staff, appointed and elected officials to ensure that the assurances specified within the SOI and development agreement are adhered to. As currently zoned, no additional public inspection of the development plans is required.

STAFF RECOMMENDATION

Approval based on 1) the proposed C-P and PUD 17 are in general compliance with the recommended land use designation of the Metro 2020 Plan; 2) C-P and PUD zoning assures greater certainty to the development of the site; and 3) the proposed development agreement affords the opportunity to address known infrastructure deficiencies in advance of scheduled City installation.

This recommendation is subject to the applicant satisfactorily addressing all technical development agreement issues prior to forwarding the request to City Council

Report prepared by PKJ

Approved by PKJ

SITE CHARACTERISTICS

Area (acres)	22.53 acres
Address	Unaddressed (located at SE corner of Nifong Boulevard and Bethel Street)
Topography	Gently rolling northward (falls 30 to 40 feet)
Vegetation	Grass
Watershed	Mill Creek

SITE HISTORY

Annexation date	1966
Initial zoning designation	R-1 and R-2
Previous rezoning requests	1986: Rezoned 18.76 acres to R-3 PUD (plan expired) 1991: Rezoned southeast 18.52 acres from R-1 and PUD 3 to O-1. (Ord. 013147)
Land Use Plan designation	Employment District
Existing use(s)	Vacant
Existing zoning	R-1, R-2, R-3, and O-1

SURROUNDING LAND USES

Orientation from site	Zoning District	Land use
North	C-P & R-3	Bank, vacant land, and residential
South	R-1	Gentry Middle School and Rockbridge High School
East	C-1 & C-P	Commercial (B-12 Bar) and vacant land
West	R-1	Vacant (future church site) and Bedford Walk subdivision

UTILITIES & SERVICES

Sanitary Sewer	All City Services
Water	
Electric	
Fire Protection	

ACCESS

Nifong Boulevard	
Location	North side of site
Major Roadway Plan	Major Arterial (improved & City-maintained), requiring 106-110 feet of right-of-way – approximately 90-100 feet exists. 8-10 feet of additional required ½ width would be obtained upon submission of a subdivision plat.
CIP projects	4-lane upgrade, Providence to Scott. Design: 2015; Construction: 2020.

Bethel Street	
Location	West side of site
Major Roadway Plan	Neighborhood Collector (improved & City-maintained), requiring 60 feet of right-of-way - approximately 56-feet exists. Minimum 2-feet of additional ½ width required and would be obtained upon submission of a subdivision plat.
CIP projects	None.

Peachtree Drive	
Location	East side of site
Major Roadway Plan	Local Non-Residential (improved & City-maintained), requiring 60-66 feet of right-of-way. Full right-of-way may be required to accommodate the extension of this road through the site.
CIP projects	Westward extension of Peachtree Drive is planned to pass through the site & "T" into Nifong Blvd at east side of site. Design: 2015; Construction: 2019.

PARKS & RECREATION

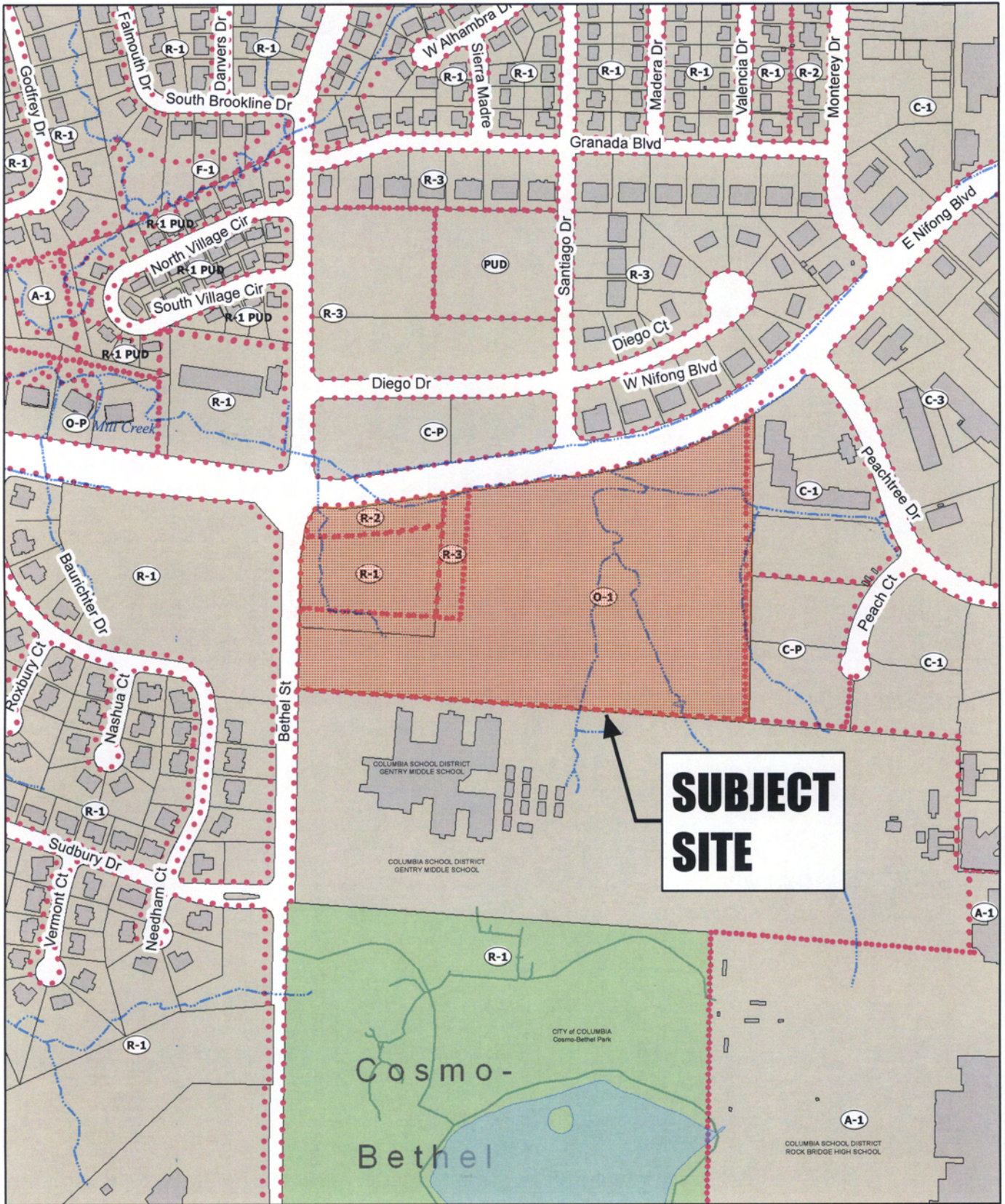
Neighborhood Parks Plan	Site is served by Cosmo-Bethel Park, approx. 650 feet to the south.
Trails Plan	No trails planned adjacent to site.
Bicycle/Pedestrian Plan	Both Nifong & Bethel are "Urban Pedway" routes. 8-ft wide sidewalk/pedway exists along north side of Nifong. Future pedway may be built along Bethel, adjacent to site. Location to be determined.

PUBLIC NOTIFICATION

All property owners within 200 feet and City-recognized neighborhood associations within 1,000 feet of the boundaries of the subject property were notified by postcard of a public information meeting, which was held on May 17, 2011.

Public information meeting recap	Number of attendees:3 (applicant's agent and attorney) Comments/concerns: ** - see below
Neighborhood Association(s) notified	Bedford Walk and Rockbridge
Correspondence received	2 letters and a petition with 143 signatures opposing the request (attached). Concern with flooding, traffic congestion, density, safety hazards at schools.

** - The applicant held two (2) developer public information meetings - May 16 and June 22. Staff attended each meeting with approximately 20-30 residents. The applicant provided an overview of the proposed request and addressed several technical concerns. Issues raised during each meeting dealt with stormwater, roadway improvements/congestion, and the general need to rezone the property to commercial. The second meeting provided more answers to the issues raised and clarified the applicant's commitment to entering into a "development agreement" with the City relating to construction of specific site improvements that would mitigate the concern raised.



11-34: Jeffrey E. Smith Investment Co. Rezoning Request

0 150 300 600 900 1,200
Feet





2007 Aerial Imagery

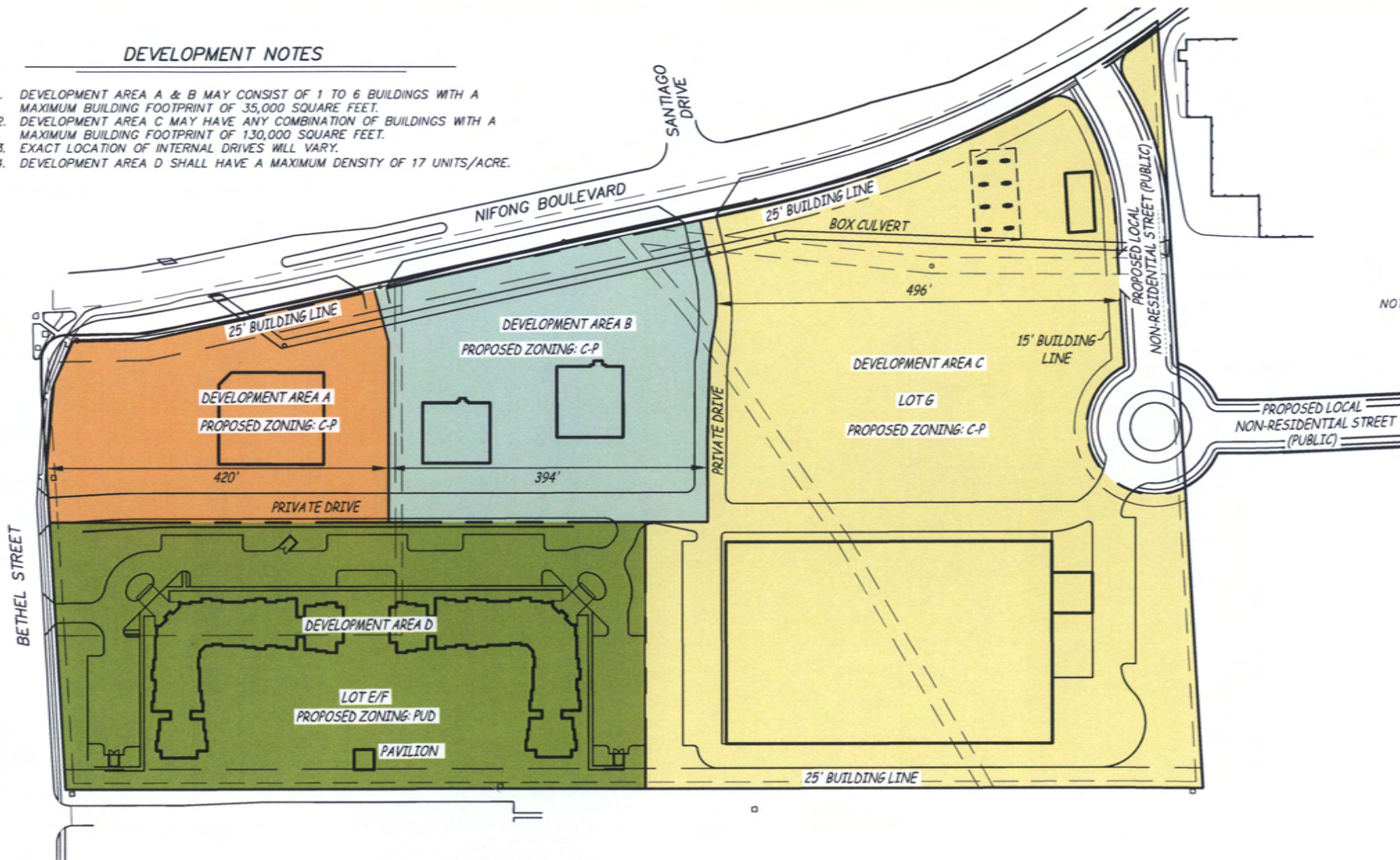
11-34: Jeffrey E. Smith Investment Co. Rezoning Request

0 150 300 600 900 1,200 Feet



DEVELOPMENT NOTES

1. DEVELOPMENT AREA A & B MAY CONSIST OF 1 TO 6 BUILDINGS WITH A MAXIMUM BUILDING FOOTPRINT OF 35,000 SQUARE FEET.
2. DEVELOPMENT AREA C MAY HAVE ANY COMBINATION OF BUILDINGS WITH A MAXIMUM BUILDING FOOTPRINT OF 130,000 SQUARE FEET.
3. EXACT LOCATION OF INTERNAL DRIVES WILL VARY.
4. DEVELOPMENT AREA D SHALL HAVE A MAXIMUM DENSITY OF 17 UNITS/ACRE.



ROCKBRIDGE SUBDIVISION BLOCK VIII CONCEPTUAL DEVELOPMENT & REZONING EXHIBIT COLUMBIA, MISSOURI FEBRUARY 23, 2011



Engineering Surveys & Services
1113 Fay Street
Columbia, Missouri
573 - 449 - 2646
Missouri Engineering Corporation # 2004005018

RECEIVED

JUN 28 2011

To: Planning and Zoning Commission members

Ray Puri, Bill Tillotson, David Brodsky, Stephen Reichlin, Andy Lee, Jeffrey Brown

Ann Peters, Matthew Vander Tuig, Doug Wheeler

PLANNING DEPT.

Regarding the request by Jeffery E. Smith Investment Company (owner) to rezone approximately 22.50 acres on the southeast corner of Bethel Street and Nifong Boulevard from R-1, R-2, R-3 (single-family, two-family, and medium density multiple-family residential) and O-1 (office) districts to PUD 17 (planned residential up to 17 dwelling units/acre) and C-P (planned business),

We the undersigned object to the rezoning request based on:

- the density of planned development and potential uses of the land
- the intention to draw more traffic to the area than can be reasonably handled
- the increased safety risks to nearby schools and school children
- the flooding hazard posed to surrounding neighborhoods and businesses stemming from the inevitable stormwater runoff into the Mill Creek watershed

We ask the Planning and Zoning Commission to deny this request for rezoning.

Name:

Address:

<u>Anna Bruzese</u>	<u>4209 Fall River Dr.</u>
<u>Ray Puri</u>	<u>4203 Fall River Dr.</u>
<u>David Brodsky</u>	<u>4203 Fall River Dr.</u>
<u>Ray Puri</u>	<u>713 Sudbury Dr.</u>
<u>Jean Reutskel</u>	<u>4201 Cape Cod Ct</u>
<u>Elizabeth M. Crane</u>	<u>701 Sudbury Dr</u>
<u>Keith C. Crane</u>	<u>701 Sudbury Dr</u>
<u>Sarah Crane</u>	<u>701 Sudbury Dr.</u>
<u>Rebecca Crane</u>	<u>701 Sudbury Dr.</u>
<u>David & Norma Clark</u>	<u>700 Sudbury Drive</u>

To: Planning and Zoning Commission members

Ray Puri, Bill Tillotson, David Brodsky, Stephen Reichlin, Andy Lee, Jeffrey Barrow,
Ann Peters, Matthew Vander Tuig, Doug Wheeler

Regarding the request by Jeffery E. Smith Investment Company (owner) to rezone approximately 22.50 acres on the southeast corner of Bethel Street and Nifong Boulevard from R-1, R-2, R-3 (single-family, two-family, and medium density multiple-family residential) and O-1 (office) districts to PUD 17 (planned residential up to 17 dwelling units/acre) and C-P (planned business),

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We ask the Planning and Zoning Commission to deny this request for rezoning.

Name:

Address:

Hannia + Donald Burke-Aguero 513 Sudbury Drive

RONALD & SANDRA Reeves 4305 VERMONT CT.

Lisa A Htschul Peter A Htschul 4317 Vermont

Renee Munns Renee Munns 4313 Vermont Ct

David Munns [Signature] 4313 Vermont Ct.

Jon Tuller [Signature] 4309 Vermont Ct

Nitin & Harshita Patel [Signature] 4308 Vermont Ct.

Xiaoming Liu 4304 Vermont Ct

Debra Potthast [Signature] 517 Sudbury Dr.

Karen Kern 4300 Champlain

Mark Kraft	4307 Fall River Drive
Barbara Hayes	4305 Fall River Dr.
Jeffrey Hayes	4305 FALL RIVER DR.
8000	4403 FALL RIVER DR.
Richard C. Dixon	4403 FALL RIVER DR.
Chris Kelley	4501 Fall River Dr.
Terry Kiley	" "
Linda Witter	4503 Fall River Dr.
Ruth Morrison	900 Royal Birkdale
Myrna Gouret	804 Royal Birkdale Dr.
Harriet Stigg	802 Royal Birkdale Dr.
Dana Ant	800 Royal Birkdale Dr.
Karne Mager	803 Royal Birkdale
George Magyar	803 Royal Birkdale
Rita Klein	4400 Fall River Dr.
Larry Klein	4400 Fall River Dr.
B. Pedersen	901 Haverhill Ct
Shelli Morris	4302 Fall River Dr.
Patricia Buckett	4301 Fall River Dr.
Joseph Quirk	4204 Fall River Dr.
Curtis Quirk	4204 Fall River Dr.

Kimberly Palmer	4505 Fall River Dr 65203
MATTHEW REESKE	900 SHAKERTOWN WAY 65203
Renette Reiske	900 SHAKERTOWN WAY
Jim J Foustal	4500 FORUM BLVD
Gail Forestal	" " "
Janie McArthur	807 Shakertown
Phil Brothers	803 Shakertown
Carl W Holen	802 Shakertown
Paula M Holen	802 Shakertown
Nicky M Higgins	800 SHAKERTOWN
Edmund Wingert	4510 Avondale Place
Janet E. Welch	4509 Avondale Place
Chad Robin	4505 Avondale
Jon Deal	4500 Avondale
Amy McGrew	4502 Avondale Pl
Teresa Matulewski Hays	712 Shakertown Way
Steve Hays	712 Shakertown Way
Joe North	608 Shakertown Way
MI Ruff	601 SHAKERTOWN WAY
Anne Corley	701 New Market

Norm Kaden	611 Sudbury Dr
Jim James	605 Sudbury Dr
Lynn McKeown	4300 Montpelier Place
Jaye McKay	4300 Montpelier Place
Larry Kury	4308 MONTPELIER PLACE
William Kelly	4308 Montpelier Place
Kelly Hanson	4309 Montpelier Pl.
Brian Hanson	4309 Montpelier Pl.
Mike O'Leary	4305 Montpelier Pl.
Dr. Janelle	4305 Montpelier Pl.
Ken O'Leary	4301 Montpelier
Larry Rollins	4211 Fall River 2063
Len Brumby	4209 Fall River Dr.
Mike	4106 Ashmea Ct
Dana Case	500 Sudbury
Larry Russell	4305 Needham Ct.
Mike	4302 Needham Ct.
James P. M.	404 Sudbury
Peter	4205 Cape Cod Ct
Quentin	4207 Fall River Dr.
Robert Robinson	4520 Fall River Dr.
William Jondoe	905 Haverhill Ct

Wendy Krum	702 New Market Pl
Detelina MARINNA	4107 Nashua Ct.
Linds Adams	4107 Nashua Ct.
Michael Aro	4102 Nashua Ct
Ly	4203 BAURICHTER DRIVE
Kenneth V. Miller	4202 Baurichter drive
Lorena M. Miller	4202 Baurichter drive
M. FRED	4103 Roxbury Ct.
Paula Thompson	4106 Roxbury Ct.
Gallene M. Beebe	4102 Roxbury Court
Jack H. Beebe	4102 Roxbury "
Stephanie Toth	4207 Fall River Dr.
Leonard Zengere	4108 WATERTOWN PL
Dennis Zengere	4108 Watertown PL
Charles J. Peterson	505 Sudbury Drive
John W. Chaluz	4506 FALL RIVER DR.
Coke Taylor	4000 Melrose Ave.
Lilly M. Dickerson	805 Shakerstown Way
Allen C. Crock	4203 BAURICHTER DRIVE
Steve Conlon	509 Sudbury Drive
David Potthast	517 Sudbury Drive

Myron Kinn 4300 CHAMPLAIN CT

Annette + Doug Kiehne 4308 Champlain Ct

Lora Reno-Stich 4309 Champlain Ct

Abra Froberg 4300 Vermont Ct.

Robert L. Hech, Jr 4300 Vermont Ct

Donald W. Burke-Agius 513 Sudbury Dr.

4107

To: Planning and Zoning Commission members

Ray Puri, Bill Tillotson, David Brodsky, Stephen Reichlin, Andy Lee, Jeffrey Barrow,
Ann Peters, Matthew Vander Tuig, Doug Wheeler

817-3116

Regarding the request by Jeffery E. Smith Investment Company (owner) to rezone approximately 22.50 acres on the southeast corner of Bethel Street and Nifong Boulevard from R-1, R-2, R-3 (single-family, two-family, and medium density multiple-family residential) and O-1 (office) districts to PUD 17 (planned residential up to 17 dwelling units/acre) and C-P (planned business),

We the undersigned object to the rezoning request based on:

- the density of planned development and potential uses of the land
- the intention to draw more traffic to the area than can be reasonably handled
- the increased safety risks to nearby schools and school children
- the flooding hazard posed to surrounding neighborhoods and businesses stemming from the inevitable stormwater runoff into the Mill Creek watershed

We ask the Planning and Zoning Commission to deny this request for rezoning.

Name:

Address:

KAREN GOREE

4307 WATERTOWN PL, CO, MO

LISA LOPARTO

4306 Watertown Pl. Co. Mo.

Vicky Elliott

4304 Watertown Place, Co Mo

Sharon Miller

4302 Watertown Place, Co Mo

Maura S'Ch

4201 Watertown Place Co Mo

Anne Weller

4203 Watertown Pl Co Mo

Abrar Ahmed

4111, Watertown Place

DENNIS CROUCH

4109 WATERTOWN PL

Brian Kuhlmann

4107 Watertown Pl.

Gary Oerly

4007 Watertown Pl.

Jesse Curry Jr	4001 Watertown pl.
Paul Speckman	4100 Watertown pl
Steve Banickley	4110 Watertown Pl.
Tom Marshall	4202 Watertown Pl.
MARCIA SENCE	4300 WATERTOWN PL
CHARLES TURNER	" " " TURNERCEL@MAC.COM
Louise Brillhart	4303 Watertown Pl
Wingee Pui Chan	4305 Watertown Pl
Kammie Jeter	4403 Melrose Dr.
Stene Vans	4407 melrose Dr
Tramping Chen	4407 melrose Dr.
Julia Vincenz	4409 Melrose Dr.
Mary Vincenz	4309 Melrose Dr.
Thomas Callahan	4303 MELROSE DR.
Violet Birdsong	4500 Revere ct.
Gagneesh Rawat	4501 Revere Ct.
Doragshag. LTH	4507 Revere ct
John Widmer	4506 Revere Ct
A. I. Chajin	904 Shakerbrook way.
Jeffrey Holman	4511 Fall River Drive
Tom Holman	4511 Fall River Dr.
William C. Galt	4504 Fall River Drive
Bob & Kris	4504 Fall River Dr.

Patrick Zenner - development proposal at nifong and bethel

From: "Anita Bruzzese" <anitabruzzese@centurytel.net>
To: <ward5@gocolumbiamo.com>
Date: 5/30/2011 3:28 PM
Subject: development proposal at nifong and bethel
CC: <mayor@gocolumbiamo.com>, <JATHAXTE@gocolumbiamo.com>, <planning@gocolum...

Helen Anthony
Ward 5 Representative
Columbia City Council
701 E Broadway
P.O. Box 6015
Columbia, Missouri, 65205

Dear Ms. Anthony,

As our new representative on the Columbia City Council, we wanted to familiarize you with the situation in our neighborhood.

We live in the Bedford Walk subdivision in southwest Columbia. As you're aware, areas surrounding this neighborhood have been growing tremendously over the past decade. Many new businesses have sprung up along the Nifong corridor, which borders the neighborhood, and many more homes have been built to the west increasing the use of this corridor.

Our concerns include growing traffic problems, and even more important, the increased flooding of our neighborhood and surrounding areas. With the proposed rezoning of the 22-acre parcel on the southeast corner of Bethel Street and Nifong, many in the neighborhood worry we are at a tipping point.

Specifically, Mill Creek runs behind our home and other homes along Fall River Drive and Watertown Place. Mill Creek starts as not much more than a drainage ditch around the Peachtree Plaza area before crossing under Nifong, through Stone Bridge business park and the neighborhood behind it, then back under Nifong again before entering our subdivision and exiting under Forum Boulevard. While a portion of this land is in a 100-year flood plain, runoff from heavy rains have pushed the water over its banks several times in the 13 years we have lived here.

Last year, Nifong flooded right between the parcel in question and the bank on the northeast corner of the intersection. Police blocked off both ends of the flooded road and forced traffic to go behind the bank. This flooding took place without one building or parking lot on that parcel. The runoff was simply what was already coming from upstream and off the open land. Imagine the kind of runoff an additional 22 paved acres will deliver.

This isn't just a guess on our part. City engineers have come out to our neighborhood several times to discuss yard and street flooding. While they did what they could at the time – at least once clearing the pipes where the creek exits the neighborhood under Forum – their main message was that as long as building continued upstream, we were in danger of increased flooding. They specifically cited the open parcel next to Gentry Middle School as something of concern.

While we understand rules have gotten stricter about development's impact on existing stream flows, you can imagine our concern about where the runoff from 22 impervious acres is going to go, especially in a heavy storm or prolonged rain scenario. Like we said, we've already seen the road closed with no building on the site.

At the same time, we're very concerned about what kind of traffic Nifong can bear west of Providence, where it is strictly two lanes. It used to be traffic was heavy at the Nifong/Bethel corner in the morning and afternoon when school buses and parents dropped off and picked up kids at Gentry. With the increased development of housing to the west, the Nifong corridor can now be backed up considerably during the morning and evening commutes.

The density of the development proposed for the Nifong/Bethel corner is meant to draw a constant flow of retail traffic – traffic

the current road cannot handle. Gridlock and accidents are sure to follow. The fact that this is a school zone with many children walking on their own to and from Gentry only adds to the safety threats.

Ms. Anthony, thank you for your time, and please don't hesitate to contact us with any questions.

Leonard and Anita Bruzzese
4209 Fall River Drive
Columbia, MO 65203
817-3116

cc:

Patrick R. Zenner
Jim Thaxter
Bob McDavid

RECEIVED

**JUL 01 2011
PLANNING DEPT.**

To : Mayor's Office, City of Columbia Planning Department

From: Melissa Cruik, 812 Shakertown Way, Columbia

CC: Bedford Walk Homes Association, Laura Nauser

Topic: Proposed rezoning and development on the southeast corner of Nifong and Bethel.

I recently attended the two public planning meetings concerning the rezoning application for the southeast corner of Nifong and Bethel. I spoke with the city's designator for the project – Pat ; he was very pleasant.

The following is a summarization from our conversation:

My primary concern is traffic on Nifong and how it relates to Bedford Walk during 'peak hours'. There did not seem to be a good understanding of the strained road infrastructure in the area.

1. Currently Bedford Walk has two primary ways to access Providence, Nifong and Southhampton. When school is in session Southhampton becomes a very dangerous situation. Student and parent drivers, matched with pedestrians, on a two lane road with no suitable pullouts causes parents to stop in the middle of Southhampton to let their children out regardless if they are next to a pedestrian cross walk. Additionally cars will line up clear back to Bethel as it gets closer to 8:00 am due to the high traffic flow.
2. Next door, Gentry middle school is squeezed due to pedestrians, buses, and parents. Often the traffic on Bethel will back up from the school entrance all the way to Southhampton. Heading north from the school will find a row of buses all the way down the 'School Zone'. It is important to note that the 'School Zone' stretches past the school boundary and down adjacent to the proposed development. If the buses are no longer able to park down Bethel because they might block an entrance to the development, where will they go? Bethel is only a two lane road, and with the buses, it becomes a lane and a half wide. Traffic already crawls through the area.
3. Another option to exit Bedford Walk is Forum, a two lane road on a hill. At 7:15 in the morning, it is necessary to wait 3 or 4 lights to head north on Forum past Nifong, and the wait only increases as the morning commute develops. It is important to note that Bedford Walk is the first 'community' south of Nifong, and from there south is all residential, and all those residents are trying to 'get out' as well.
4. It's also important to note that Nifong between Forum and Bethel often backs up between the two roads. From the north exit out of Bedford Walk, heading east

File
COPY

on Forum, can be impossible since the vehicles back up from Bethel all the way to Forum. Often you have to wait several stoplights to get out. This is the current traffic movement heading toward the proposed development.

5. From Bethel to Providence, Nifong is narrow, on a hill, and it curves. Traffic regularly backs from Bethel half way up to Providence, and the planning department is proposing a traffic light. Traffic already backs up from Bethel to both proposed traffic light locations during the evening commute when everyone is coming home. And it's horrible when it rains; the area becomes grid-locked.
6. Most importantly, the proposed development is an 'infill' project, with pre-existing neighbors on 4 sides. The road infrastructure currently in place is already strained.

The developer's engineer actually got up at the first public meeting and described the proposed 400+ parking lot, saying it would have no increase on traffic. That type of irrational sentiment does not invoke confidence with the public. It is the responsibility of the city to make sure the current infrastructure can handle the proposed traffic increases. As it stands now, and should the development progress rapidly, the current road infrastructure cannot wait until a bond in 2013, 2014, or 2019. The system is already stressed. If the city can not fund road improvements in a timely fashion then the developer should be responsible. It's a higher cost on their part, but that's the price you pay when you hold on to a property so the neighborhood can develop. Infill is normally always more expensive; that's the bottom line.

Thank you for your help and attention to the matter.

**EXCERPTS
PLANNING AND ZONING COMMISSION
AUGUST 4, 2011**

4) PUBLIC HEARINGS

11-34 A request by Jeffrey E. Smith Investment Company to rezone approximately 22.50 acres from R-1, R-2, R-3 and O-1 districts to PUD 17 C-P. The property is located at the southeast corner of Nifong Boulevard and Bethel Street.

MR. WHEELER: May we have a staff report, please?

Staff report was given by Mr. Patrick Zenner of the Planning and Development Department. Staff recommends approval based on 1) the proposed C-P and PUD 17 are in general compliance with the recommended land use designation of the Metro 2020 Plan; 2) C-P and PUD zoning assures greater certainty to the development of the site; and 3) the proposed development agreement affords the opportunity to address known infrastructure deficiencies in advance of scheduled City installation.

MR. WHEELER: So we are being asked tonight to consider the zoning request, but also an accompanying development agreement and statement of intent?

MR. ZENNER: Statement of intent, yes. The development agreement would be Council's ultimate approval authority. However, if you have comments, we would be more than happy to forward them along with your recommendation.

MR. WHEELER: Any questions of Staff?

MR. LEE: Mr. Zenner, you spoke about a north/south road. Is there access to Forum Boulevard?

MR. ZENNER: No. There is actually one about a half of mile east of Forum. You've got Bethel, and then you've got the Peachtree Business Center, so this is the layout -- the conceptual layout -- and I mind you, this is conceptual. This is not a binding plan by any means. They are not asking for final plan approval. We would have specific site plans submitted. You will notice on the far left hand side of this drawing is Bethel Street, with the access coming into the multi-family, which would be very similar to what you have across the street at Bethel Ridge. And then you will notice that the commercial access point is a little bit further to the north. That would serve the commercial development. The roundabout in the north/south street that I spoke of is on the right hand side of this drawing. And then you will see coming out of that roundabout is the east/west street that would have been the public improvement that the City would have been building. Now, there are three lots to the east of this property. The two that straddle the roadway are the regional detention parcels. The parcel that is furthest to the south adjacent to the high school's property is actually the substation parcel that will be potentially utilized in the near future for the construction of the

south -- the new south substation, which would deal with the 161-kV line that water and light has been discussing through public hearings. But those are the roadways that are involved. The intersection created by the north/south roadway at Nifong Boulevard is the signalized intersection -- this graphic does not show Peach Drive -- or Peachtree Drive. If I go back to this, the original intersection location that was going to be temporarily signaled is here where the cursor is, that signal is here -- proposed to be at this location. You currently, as you are probably are aware, have a signal at Nifong and Bethel. And then the next signal you have is back up at Providence and Nifong. You may ask the question, and let me just try to get to that before it is asked: Why do we not have the signal going in at Santiago? It is too close to the intersection at Nifong and Bethel. Yes, it would be ideal, because it would be better to have the controlled intersection at that point. Unfortunately, through the traffic study and modeling, the intersection location that is proposed is the best location as the in-between point between the two existing traffic signals. And that is why it is at that particular location.

MR. WHEELER: Any additional questions for Staff?

MR. VANDER TUIG: You had mentioned the proposed PUD 17 was similar to Bethel Ridge one and two, what's the density in those?

MR. ZENNER: I believe it is roughly the same. And, I apologize, Mr. Vander Tuig, I did not actually pull that material specifically. But I believe it is very consistent. I believe there -- Dan can deal with what the total unit count is. I know Jeff Smith is here also, so he may be able to address the total unit count. But I think it is probably about the same. It's actually zoned straight R-3, if I'm correct.

MR. TEDDY: I know that one of the buildings is a 42-unit building, so if that gives some sense --

MR. VANDER TUIG: Okay. Thanks. I had another question. There -- in the staff report on Bethel and Nifong, there is mention of obtaining additional right-of-way with the subdivision -- submission of a subdivision plat. Is that a -- are we expecting a subdivision plat on this?

MR. ZENNER: We will get one probably at the time when the actual first development plan is submitted. The development agreement, itself, specifically calls out a platting procedure in which to obtain the public road right-of-way for the north/south street and that portion of the roundabout that is on the developer's property. It is to be executed within -- if I recall correctly -- six months after the project would receive counsel approval. Construction of the improvements themselves -- and would be inclusive of roadway and drainage -- are called out within the 12 months following the plat approval, all of which -- the plat would come through the Planning Commission -- it would have to -- and then it would be approved by Council. The drainage improvements would be part of our land-disturbance permitting process, to be reviewed by that division only. You would not see those, most likely. So we

will get a plat, and then it is my belief, based on the way that the property is divided, we will probably either get multiple plats for each of the development areas, or we will get one plat to take care of all of the parcelization at first. And at that point, we'll get the road right-of-way and any upgrades necessary at that point, also.

MR. VANDER TUIG: Thanks.

MR. WHEELER: Any additional questions? We'll open the public hearing.

PUBLIC HEARING OPENED

MR. WHEELER: As we do so, I want to describe our rules of engagement. We are working under the routine rules tonight, so the first speaker will get six minutes. Subsequent speakers will get three. Any opposition will get six minutes, and subsequent speakers will get three, as well. With that --

MR. SIMON: Mr. Chairman, and members of the Commission, my name is Dan Simon. I am a lawyer with offices at 203 Executive Building in the city. I appear here tonight for the owner, the applicant, Jeffrey Smith Investment Company. I have with me an agent for the applicant, Mr. Jack Maher, who will speak to you in a bit; Mr. Matt Kriete, our engineer, who will talk to you about storm water and traffic issues; and Mr. Mark Farnen, who is here running the PowerPoint for me, who is a consultant who has had a number of meetings with the neighbors, and with other interested owners, including the school district and the church, who owns the property across the street. And he will talk to you about that. Mr. Zenner has done a pretty good job of explaining this request, and I don't want to spend a lot of time on that, but as you see here, this is what the property looks like today and how it is zoned. And I should have said, if there -- if you have questions of any of us, if what anybody says tonight brings up a question in your mind, if you would ask us, please, and give us a chance to address that. One of the things that has always bothered me about these processes is we get up and talk and we don't really know really what is bothering you. We don't know what other people are going to say. Then it is all over and then you all sit up here and talk, and we think, Well, we could answer that, but we didn't get a chance to. So we would beg you to ask questions if you have them. We showed the previous zoning. And this is the proposed concept that -- for this property. There is roughly five and a half acres up next to the school that would be zoned a PUD 17, as Mr. Zenner described it, with the rest of it being in C-P or Planned Business District. For the five and a half acres, the intention is -- as Mr. Zenner said -- to expand on the Bethel Ridge development across the street -- Mark, if you have that slide. I don't know. But there -- this would be, essentially, the same type of development that would be placed on this property. We think this provides a suitable residential buffer for the school, for the neighbors across the street, and frankly, makes us and the residents here that we're going to try to market these apartments to, the closest neighbors, and really make us the neighbors, and assures that this will be a high quality development, as, in fact, Bethel

Ridge is, of which the Smith companies are very proud. There has been some statements, you know, that maybe this cannot be restricted to senior housing. All we can tell you is that is our intention. But we can also tell you, as the property stands today, there would be no plan approval, but in this case, the PUD development plan for this property would have to come back before you and the City Council for approval, and the neighbors would have their input, just as we do today. The rest of it would be zoned C-P, and as Mr. Zenner has said, it is divided into three development areas that are shown here in the various colors, with the least intense use being on the west and the corner, a little bit more intense as you move across, and the most intense, but still not very intense in development area C, which is the far eastern part of the property. We think that this provides for an orderly transition from the existing commercial to the -- to the residential on the west. And we think this is a much superior plan to what could be placed on this property. Respectfully, we would submit that this is actually a request to downzone this property. Now, there will be those who will poo-poo this request and say, How could you ask that, or, How could you say that? Well, let me show you what could be placed on this property today. This could be placed on this property today with no plan approval, no platting, no dedication of public easements, no construction of any public improvement -- street improvements, as we proposed, no traffic study. It would be done as a simple matter of legal right. No one could stop it, and all you would have to do would be to get the building permits and land use permits. If you contrast these two plans and look at this, this is what you would see. First of all, you would have a much higher density. If you had, say, 300-and-something apartments with two automobiles, three to four traffic -- or three to four trips a day, the traffic intensity in this area would be much higher. You would not have the public streets that Mr. Zenner talked about. You would not have the storm water improvements that Mr. Zenner talked about. And what you would have in the intersection is an open storm water detention facility. This -- we don't think is the right thing to do, and we think, frankly, it would be an outright disaster. But it is a disaster that can happen because, strangely enough, in today's economy, the one commercial project that you can borrow money for is apartments, and the primary one is student apartments. And that's why we have going on in Columbia today what we have, and that's why we have had numerous people approach Mr. Smith and ask to buy this property for that purpose. So we hope it doesn't happen, but to say it can't happen would be a misstatement. Now, Mr. Smith and his companies are proud Columbia residents. They don't come here hat in hand. They come here with their wallets and their checkbooks. And this is what they propose to do: They propose to construct these public streets, just as Mr. Farnen has shown you, that would provide for a connection that is going to be lost when the highway department closes off the ability to go north -- to turn and go north on Providence Road, which is going to happen. So the kids from Rock Bridge come out, don't have any way to get north. This will allow for that,

and will allow other traffic to go north. In addition to that, they actually are going to put in the signalized intersection, so that traffic that would now go through unsignalized intersections will go through a signalized intersection. They proposed to provide the school district an easement that would allow the school district to connect there to the -- to this signalized intersection for the kids at Rock Bridge. They also propose a storm water improvement -- I'm sorry. This is one thing I wanted to tell you about, because Mr. Zenner has not. They have proposed to build, at their expense -- for over -- about one and a half million dollars -- a box culvert along Nifong. If that box culvert is not build, it will be virtually impossible to widen Nifong Boulevard. It will be either virtually impossible, or it will cost a huge amount of money. And the City wants that culvert build, and we've agreed to build it today at our expense. The storm water detention Mr. Zenner has talked about -- and we agreed to provide that. If we don't do this the way that we could use this property, none of this happens. So we submit to you this is a better use of this property, it is a use that assures appropriate improvements, and we would respectfully ask that you approve it. Thank you, Mr. Chairman.

MR. WHEELER: Are there any questions of this speaker? Mr. Reichlin?

MR. REICHLIN: The yellow boxes on this proposed concept, could you elaborate on what they represent?

MR. SIMON: Yes, sir. Those are underwater storm water detention facilities, and I guess I'd have to say is conceptual. You don't know exactly where they're going to be, because you -- but all the storm water detention on this property will be underground, and those are the approximate locations of the underground facilities. The requirement of the ordinance is that the postdevelopment flow from this property not be different than the predevelopment flow. Well, the storm water detention on the far right hand side is going to greatly, greatly improve the current situation. But we don't get any credit for that. We still have to demonstrate, from the calculations, that the flow off of this property will not be any -- any greater. Mr. Kriete can talk about that.

MR. REICHLIN: Thank you.

MR. FARNEN: My name is Mark Farnen, 103 East Brandon, and I'm here on behalf of the applicant. My job in this has been to talk with neighbors and different affected groups. And Pat Zenner indicated that we have had meetings with neighbors and meetings with City staff and officials, and that is true, but I would like to elaborate on that even more. We've also met with members of Bethel Ridge -- which is the development that is immediately across Nifong from our property -- that would be duplicated on this side, basically the same kind of thing, and asked their feeling about, What do you think about having commercial development in your area that is nearby? Do you like this? Does it scare you? How do you feel? We met with the Columbia Public Schools long-range facilities, because they are our immediate neighbor to the south. We met with property owners who own four different pieces

of land immediately across the street from our property. On Santiago Drive [sic], we met with First State Community Bank, who is our immediate neighbor. We met with City staff and officials, and the Episcopal church, which owns the big -- the big corner lot that is actually of the corner of where you see Bedford Walk in the -- in the bigger scope of things. From this, we got a lot of questions, and we got some objections. There is -- has been a petition that has been filed in opposition to this that has been put by members of Bedford Walk -- some members -- or some people who live in the Bedford Walk area. We've also got good compliments from some people who live in the Bedford Walk area. We have a letter of endorsement from First State Community Bank. Most people pretty much keep their heads down on these kind of things -- unless they are really opposed -- and have taken no position either for or against. But we've had good comments, basically. The things that were brought up to us are the things that Pat Zenner indicated. Meetings -- storm water is the first. Most of those have been addressed briefly by Dan. Matt Kriete can go into more detail, if needed, and can answer questions. Traffic is the big one. And they talked about the building of the different streets, but there are few things that didn't get mentioned in there, and that is, this design does appear on City plans. This is something that we didn't dream up out of thin air. This is something that has been conceptually wanted for a while. The design also helps alleviate the traffic flow if Providence gets blocked off there at -- if your ability to turn north onto Providence at, like, Sophia's, gets blocked off. This provides another outlet and another way to redirect traffic through that area. It also allows, if this development goes in, a different and an alternate place for ingress and egress for people who would be using this site, rather than Bethel. One of the biggest things that we heard was that during school drop-off and school pick-up, that busses and people coming to pick up their kids congest that street -- Bethel Street. This gives another place for people to be able to divert traffic to go in and out and not choose that highly congested area that we can't do much about. We can answer any questions. That's my three minutes, and I'm going to run this if you need to see any other exhibits. Thank you.

MR. WHEELER: Thank you.

MR. FARNEN: Yes, sir.

MR. WHEELER: Any questions?

MR. REICHLIN: Yes. I'm sorry. Just briefly, the petition was dated June 28th.

MR. FARNEN: That's true.

MR. REICHLIN: Have there been subsequent discussions --

MR. FARNEN: There was one with --

MR. REICHLIN: -- with the petitioners or anybody in particular?

MR. FARNEN: There was one meeting with the pet-- was that meeting after June 28th? We've had two meetings with Bethel Ridge. One was staged at the school, and

one was staged in conjunction with the neighbors who live at -- or with Bethel Ridge, the other with Bedford Walk. I think -- I believe that the date on that was June -- July 7th; is that right? That would have been subsequent to that petition -- yeah, because when I went in there, I knew they had the petition. That's right.

MR. REICHLIN: Okay. I was just curious.

MR. FARNEN: And since that time, we have also had a formal presentation to Columbia School Extended Planning Committee, and, in fact, talked with people on Santiago Drive as late as today. The bank meeting was a precursor of that; the meeting with the Episcopal church was after that.

MR. REICHLIN: Thank you.

MR. WHEELER: Okay. Any additional questions of this speaker?

MR. KRIETE: Good evening. I'm Matthew Kriete with Engineering Surveys and Services. Our office is 1113 Fay Street. I am the civil engineer on this project. Succinctly, I was going to talk about two of the concerns of the neighbors, the storm water and the traffic. Beginning with the storm water, currently the -- as the box culvert was showing through there, is the current stream that runs through this area. It is a 325-acre watershed that passes through this site, ending at about Bethel Street. This site is about 20-- 22 acres, about 6 and a half percent of that total watershed. As it reaches the Bedford Walk neighborhood, it becomes even a less portion of that, as the watershed should be substantial larger. And with a box culvert, again, it is allowing for the widening of Nifong. Without that, it is creating a situation where the City is going to have to either reconstruct the street -- reconstruct the stream and move it out of the way, acquire a lot of additional right-of-way, or construct the box culvert of their own merit. So there is a lot of cost simply in right-of-way acquisition and easement acquisition through here. In terms of the downstream concerns, what we have heard most is an issue with flooding and erosion. Downstream in Bedford Walk, there are 12 homes that back towards Mill Creek, which is the watershed we drain into. The remaining homes on Bedford Walk are actually upstream, and not impacted by this development. The current concerns that are in those watersheds or in those -- along those streams will not be impacted by this site. Those that are downstream, will be -- well, ultimately, improved in the storm water sense. The detention basins that are showing on the side, again, in yellow, are showing and intended to be extended detention basins. Those will actually hold back the water for an extended period of time, discharging it slowly. The study that the City had done in terms of channel protection provided by these types of basins shows that it reduces the shear stress in the banks, essentially reducing the erosion by more than half of what it is in the current condition prior to development. So again -- and with the detention, it will also hold back the extreme flood conditions, which means -- well, you are going to have improved stream bank stability, and no increase in storm water flooding downstream from this

development. These basins will also provide water quality by filtering the storm water, removing pollutants, hydrocarbons and like, and meet the storm water ordinance of the City. The bene-- and the additional benefit that was here that was not presented to the neighbors as it wasn't really an item on the table yet, is the City's detention basin. This will now provide even an increase and a benefit in the overall flooding condition downstream. It's going to reduce the flood. Again, this development cannot factor that in, and will not factor that into any benefit. This will make up for, essentially, the past sins of the Peachtree development, and other developments in the area. As for the traffic signals necessary, it's not this development driving it. It's the cutoff of probably the access to Providence Road that is requiring the signal. The traffic, you know, essentially -- we had performed a traffic study, and determined that the best location for the signal is more or less centered between Bethel and Providence at its current location. The proposed location the City had for the temporary signal was not an ideal situation, as it was pushed a little too close to Providence. So this provides an opportunity to get the best scenario for the public.

MR. WHEELER: Are you about wrapped up?

MR. KRIETE: Okay. So -- and last place I want to state here is that I think this existing traffic conditions out there are -- well, they are not the best. And this has been an opportunity for the neighbors to voice their concerns through this public hearing process. This development, itself, you know, is -- again, with the traffic study and improvements required, is going to mitigate any impacts that occur from -- from this development. So I would be happy to answer any questions you guys have then.

MR. WHEELER: Yeah. I actually do have a question on the intersection itself.

MR. KRIETE: Uh-huh.

MR. WHEELER: And this is probably a stupid question, but I'm assuming that will be timed with Bethel?

MR. KRIETE: I would assume so.

MR. WHEELER: I would assume we don't --

MR. KRIETE: Much like Grindstone Parkway currently is timed.

MR. WHEELER: Right. And the traffic study will provide for any right turns off of Nifong into the property?

MR. KRIETE: Yes.

MR. WHEELER: As well as left turns?

MR. KRIETE: As needed. Uh-huh.

MR. WHEELER: Okay. Any additional questions of this speaker? Mr. Tillotson?

MR. TILLOTSON: Just a question. Kind of getting back over on Providence -- right up there. Are you saying that is going to be a cutoff?

MR. KRIETE: I apologize. I can't see where you are pointing.

MR. TILLOTSON: About where they -- Rock Bridge --

MR. KRIETE: Yes, right there. MoDOT's intent is to install a median across there and cut off that access. And I understand it to be a right-in/right-out, no left turns at all. It would be similar to what happened further north recently when they put in delineators, except I don't understand that they are going to have a left turn availability.

DR. PURI: Don't you think that people will go down Peachtree driveway, and then take a right onto Nifong Boulevard, and then come up Providence? Why wouldn't they come up and then take a left onto that Peachtree, and then come into your roundabout and go to that traffic signal?

MR. KRIETE: Well, simply, it's hard to pull out there without the signalized intersection. I mean, from the outer roads it's pretty clear -- you're so clear to the intersection, you just can't get out, even to make a right turn. As you go back to the Peachtree Drive, again, with no access, even to make a right turn, there is quite a wait there. So the signalized intersection will provide a timing available for right turns there, as well as in the course of the signal itself. It's going to open up more opportunities for traffic to get back onto Nifong. And the student traffic is -- you know, essentially that's -- that's the real benefit is providing the safest access for the students leaving school. They are not pulling out of an unsignalized and uncontrolled intersection.

DR. PURI: But I'm saying that, you know, you have an outer road in front of Rock Bridge High School, and that high school parking lot attaches to this outer road.

MR. KRIETE: Uh-huh.

DR. PURI: Students were taking lefts. They can't take left onto Providence, but what stops them taking left and going down that Peachtree way all the way to Nifong Boulevard? I mean, that's what the main thoroughfare is right now.

MR. KRIETE: Yes. And as -- as the intersections realign, the focus of traffic will be turned in to the new east/west street, and taking the traffic towards the --

DR. PURI: That street is still going to exist. Right?

MR. KRIETE: That street will still exist.

DR. PURI: Yeah.

MR. KRIETE: It's the signalized intersection that will be the benefit, not having the way for the opportunity to make a turn there.

MR. WHEELER: So they'll probably make a right at Break Time?

DR. PURI: Sure.

MR. KRIETE: There still will be people that make a right at Break Time. And the signal, itself, will create a gap to allow that right turn to occur --

MR. WHEELER: But, basically --

MR. KRIETE: -- that currently doesn't exist.

MR. WHEELER: Basically, the State has messed with us again. But any additional --

MR. REICHLIN: So what's happening then at Providence really has no bearing on what you're doing. I mean, MoDot is doing the closure at Providence regardless of what you do?

MR. KRIETE: Irregardless of this development, that's going to occur.

MR. LEE: Do we know when?

MR. KRIETE: We do not. I think MoDOT would love to do it tomorrow if they could, but they're trying to give the City an opportunity to develop a scenario that traffic can circulate out of there. But MoDOT doesn't see it as adequate, nor does the City in its current condition.

MR. WHEELER: Any additional questions? Mr. Simon, could you step back up here? I actually --

MR. SIMON: I'm sorry?

MR. WHEELER: Could you step back up here for a second?

MR. SIMON: Yes.

MR. WHEELER: Actually, that three minutes is not very long, and I saw some restrictions on there. And actually, I didn't get to work through this list, but you are comfortable with this binding statement of intent with the restrictions?

MR. SIMON: Oh, absolutely. I mean, we prepared it, and we prepared it after numerous conversations back and forth with both the neighbors, people in the area, and with Staff. And we had a real disagreement about the convenience store, but we've removed it.

MR. WHEELER: All right. Thank you.

MR. LEE: Mr. Simon?

MR. SIMON: Yes, sir.

MR. LEE: Excuse me. In the documentation here, there are a number -- quite a few signatures on a petition to deny.

MR. SIMON: Yes.

MR. LEE: Has any of that been alleviated?

MR. SIMON: Well, we think -- if you read what they are objecting to, that the concerns are dealt with. Most -- most of the concerns have nothing to do with us there today. The storm water problem, as Mr. Zenner said, a large part of it is caused by the poor design of the Peachtree Center and the sheet flow off of that center. This will be alleviated by the storm water detention facility that we're going to build at the time we build the east/west street. So that would -- that will have a big help with that downstream situation. What we're going to do on our property will have no effect on the flood plain, and so forth, downstream, because we are prohibited from doing that -- that the storm water ordinance prohibits it. Insofar as the traffic situation is concerned, we think that what we propose is going to make it better, it's going to provide something that the City is going to have to provide when MoDOT closes off

that exit, which they are going to do, and have already told the City they are going to do. And they're just waiting for the City to come up with an alternate path. So, you know, whether we dealt with all 144 people's concerns, we've at least dealt with the concerns that were itemized one, two, three, four, in the petition, as we have seen it.

MR. LEE: Thank you.

MR. WHEELER: Any additional questions?

DR. PURI: Who did the traffic study? Who did the traffic study?

MR. SIMON: Who did the traffic study? Well, there was an original one, but they are going to have to do one when the development starts. So it would be a complete predevelopment traffic study that has to be submitted with the first development plan. And the development agreement requires that it be for the entire development, as built out. So there is a preliminary traffic study that was done, but there has to be a complete traffic study that is done with the first development plan. And it specifically provides that if there are impacts on any of the intersections within the Bethel corridor or the Nifong corridor that are attributable to the traffic from this development, then the development has to, at its expense, provide the improvements that mitigate or eliminate those impacts so that the pre or postdevelopment intersection level of service is the same as the predevelopment level of service, or no worse. Now, who did the traffic study?

MR. KRIETE: The traffic study was completed by Crawford, Bunte and Brameier.

DR. PURI: Thank you.

MR. WHEELER: Mr. Reichlin?

MR. REICHLIN: Is Mr. Simon or -- I -- just briefly, if you had to quantify the difference in trips that you were relaying to with regard to what could happen and what you are proposing, could you -- it's twice as many more? It's quadruple?

MR. SIMON: Well, I -- it's --

MR. REICHLIN: I mean, is there --

MR. SIMON: It's great for a lawyer to get up and say things, but I am not a traffic engineer. And I think an expert traffic engineer would have to do that. As a lay person, I can look at this apartment project and say, Oh, if have cars per apartment -- particularly if they are student apartments -- you would have at least two. If they make four trips a day, we have four -- 300 apartments times 2, which is 600 times 4, which is 2,400 trips a day. But the difference between that and the proposed development is that all of those trips are going to be at peak traffic times. They are going to be at rush hour times when traffic is bad out here, not at the times when people are coming in and out of this other development. So I can't quantify it. I'm not qualified. But as a layperson, that is my position.

MR. REICHLIN: Thank you.

MR. WHEELER: Any additional speakers?

MR. MAHER: My name is Jack Maher. I am a broker with Maly Commercial. Our office is at 213 Stadium. We represent the Jeffrey Smith Companies. And really, I am here to kind of answer any questions on behalf of Jeff, who could not be here tonight. But, just a couple of things, you asked some questions -- the two Bethel Ridge developments that have already been built, there is 44 apartments in each one. And that is typically what they are trying to put in here. I think the rezoning allows 93, so there was some flexibility on that. And Jeff owned the property where the bank and the Bethel Ridge -- that was 12 acres. And basically, it's just a flip-flop. We want to do the -- whoops, hit it there. We want to do the same thing on the other side. And he wants to be sure that everything is developed, and that it looks good. That is really what we are after here. And, you know, it's kind of a tradeoff. The only way that we can really say to the City and pay for all of these improvements is to rezone it so that we can get the highest and best use of it. So it is a win-win situation for both sides. That's the way I feel about it. But if you want to add -- any questions about the Smith Companies -- you know, they've got 68 units -- or 68 developments already. They just do senior housing. And that's why they've hired us, because they don't anything about commercial. They want to put their project there, and they want everything around it to look good.

MR. WHEELER: Any questions of this speaker? Thank you.

MR. MAHER: Sure.

MR. WHEELER: Any additional --

MR. SIMON: That concludes our presentation.

MR. WHEELER: Thank you, Mr. Simon. Is there any other speakers, or opposition who would like to speak? Please give us your name and address.

MS. SMITH: My name is Karen Smith. My address is 601 Sudbury Drive. I live in Bethel Walk. And I didn't intend to speak tonight. I just came to listen and observe and make sure the Commission was aware that there were people interested in this decision. But as the discussion -- a question came to me as the discussion was being held, and I felt like it was a question that probably should be raised by many of the people in Bedford Walk. By the way, most of the conversations have been very positive. We have really appreciated the meetings that have been held by the developer, having input. And the discussion back and forth between neighbors -- and I only represent myself, but those that I have been talking to, feel that this is a -- we know that corner is going to be developed. That is not a question. It is prime property. And so it's not going to stay a nice grassy field forever. So what we're looking at is the fact that this appears to be the best possible development, and we're -- I have very positive feelings about it. The question that I had is that the discussion that was taking place tonight was the property just to the east of this development, where there is going to be a storm drain drainage. That property, was that originally -- the question that I

have is originally -- thanks for the arrow. That's very helpful. Was that all originally owned by the developer of that property? And has that now been donated or given to the City?

MR. ZENNER: It was not owned by the developer, although there was an option by the developer to purchase it, and the City has purchased the property outright. We are the title owners to it.

MS. SMITH: Okay.

MR. ZENNER: And it was purchased ostensibly for the purposes of the storm water detention -- that regional detention for the Peachtree Business Center and then to facilitate the location of the new substation for the southern end of the city.

MS. SMITH: And I know that's one of the hot button issues is that substation, so is that -- that came up as that will raise a lot of red flags for those of us that live there. So that property was purchased, not as part of this overall plan. The City purchased that? There was an option by the developer for property?

MR. ZENNER: The developer was originally approached, and Mr. Maly, working with the former City manager, had discussed the need the City had for that property for its need -- for its storm water, as well as the electrical substation needs. And the owners -- Jeffery Smith's Company, who Mr. Maly represents, they discussed with the City, and they agreed not to execute that option, and allowed the City to take it to purchase that land. So we -- it was their original desire to purchase it for the purposes of actually doing the construction of the roadway back through it. That was one of the primary reasons realizing that the closure of the crossover on Providence Road would ultimately happen at some point, and the need to be able to drive access back through the subject site to be able to provide a relief valve from Rock Bridge High School, as well as the Peachtree Business Center. There was a series of conversations well in advance, actually, of this proposal coming forward. However, as I understand the history behind this, this site has been contemplated for development for some time by Mr. Smith, and they have held off on that development until now. And it just happens to be that the development occurred after the City acquired the land immediately to the east.

MS. SMITH: So those weren't part of any kind of a master plan that was coordinated between those two pieces of property?

MR. ZENNER: The roadway may have been the only component, as Mr. Kriete pointed out, because the roadway does exist on our City CIP. And so the idea of the roadway connection was there. The need for the regional detention had been there, and the opportunity. However, to find a positive location or a proper location for it, I don't think presented itself to the City until the issue for the option associated with the purchase of the property was offered to the City. The developer of the Peachtree Business Center had deceased. The estate was looking to settle the estate. And that was one of the original impetuses of four -- Mr. Smith's property has been conveyed to me -- as to why they were

approached to purchase these parcels. Through a coordinated effort, basically, the City acquired them for our needs, but also for a roadway.

MS. SMITH: Okay. And that seems that -- my time is up. Right? That answers my questions. That's what I needed to know. That really answers my question. So thank you very much.

DR. PURI: I just have one question for you.

MR. WHEELER: Ma'am?

DR. PURI: Ma'am?

MR. WHEELER: Ma'am?

MS. SMITH: I thought for him.

DR. PURI: Were you one of the people that originally signed the petition, and then now changed your mind?

MS. SMITH: Oh, no.

DR. PURI: Okay.

MS. SMITH: No. No. No. I have never have come out in opposition of this. Thank you.

MR. WHEELER: Thank you. Are there any other speakers this evening? All right. Seeing none, we'll close the public hearing.

PUBLIC HEARING CLOSED

MR. WHEELER: Commissioners? Does anybody want to go first? Mr. Lee?

MR. LEE: It seems to me this is a very good use of the land compared to what could be done there, and I intend to vote for it.

MR. TILLOTSON: I kind of echo that. I think that it has been presented very well. I really see no one in opposition. And I kind of feel that it was indicated that a lot of the signatures, their doubts or questions pretty much were answered through the process. And I intend to vote for it.

MR. WHEELER: Mr. Reichlin?

MR. REICHLIN: I've lived in Bedford Walk for several years. The people from Bedford Walk have been vigilant about protecting the uses in their environment. Some of the people who are on that petition were my neighbors -- or are my neighbors. And -- but when I look at this, and what -- you know, if you look at 20, 25 years and you think of, Well, could we have another Diego Court or could we have another Bethel Ridge with the way the bank looks today, and those adjoining parcels, it's pretty plain to me that supporting this is a much better choice.

MR. VANDER TUIG: I agree. I think the City is gain-- gaining a lot with this proposal. I think with the statement of intent and the development agreement, the two major issues are well taken care of, and so I am mostly going to support it.

DR. PURI: I think I -- I like this C-P plan of this whole presentation. I do not agree with the PUD plan. I understand there is existing problems there on Bethel Road, and there is a big traffic problem, and also, as you have mentioned, storm sewer problem. We are not traffic engineers. We are not here to, you know, look at traffic, how it's going to flow, or it is proper the way you have the intersection or not, but I think that this increased density in the rear side there next to the school dumping on to Bethel Road is entirely a different animal than across the street where Bethel Ridge is now with the bank. So I tend to not support this.

MR. WHEELER: Well, I had some concerns initially about this intersection -- the signalized intersection. I think we have seen slowly over time as things have become busier and busier on Nifong that -- that, you know, we're -- we've got another signal over by Wal-Mart now. We seem to keep putting intersections in. We're going to go from stop sign to stop sign. But I don't see any way to address the traffic issues in this area without that intersection. I think we are getting some significant benefits from the storm water standpoint, as well as traffic flow. I'm -- you know, I'm going to support this. I think, overall, this is a -- well, I think that the alternative is -- would be much worse on Bethel and much worse on Nifong. And I'm sure that there has been a lot of inquiries about this particular piece of dirt. We are probably pretty fortunate that it is owned by the party it is owned by, so that -- money hasn't tempted him quite as much as it might someone else. So I do think there is some significant benefits for the City, and it's a good plan. I agree with Mr. Vander Tuig that there is some -- with it being C-P and those development plans having to come back before us, we are going to get another look at it. And the statement of intent is going to address -- and development agreement are going to address a large portion of the issues that we've -- that we've heard about. So that's it. If there is someone would like to frame a motion.

MR. TILLOTSON: I'll take a crack at this. I'll make a motion we approve the request by Jeffery Smith Investment Company to rezone approximately 22.50 acres from R-1, R-2, R-3, and O-1 districts to PUD 17, planned residential up to 17 dwelling units an acre, and C-P.

MR. WHEELER: With the accompanying statement of intent?

MR. TILLOTSON: Absolutely.

MR. LEE: And I'll second.

MR. WHEELER: Thank you. A motion has been made and seconded to recommend approval of a request by Jeffery E. Smith Investment Company to rezone approximately 22.50 acres from R-1, R-2, R-3, and O-1 districts to PUD 17 and C-P, with the accompanying statement of intent. The property is located at the southeast corner of Nifong Boulevard and Bethel Street. May we have a roll call, please?

Roll Call Vote (Voting “yes” is to recommend approval.) Voting Yes: Mr. Lee, Mr. Reichlin, Mr. Tillotson, Mr. Vander Tuig, Mr. Wheeler. Voting No: Dr. Puri. Motion is approved 5-1.