

RECEIVED MAR 27 2013

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SARAH E. GIBONEY

RAYMOND C. LEWIS, JR. (1926-2004)

AMANDA ALLEN MILLER
DANIEL G. BECKETT
BETHANY R. FINDLEY

OF COUNSEL
ROBERT C. SMITH

PARALEGAL
CHERYL L. LOBB

March 27, 2013

The Honorable Bob McDavid and
Council Members of the City of Columbia
701 E. Broadway
Columbia, MO 65201

Re: Case #13-06, Requested rezoning by 8 Ball Commercial for rezoning from A-1 to
C-P

Dear Mayor and Council Members:

It is my understanding that many of you have been informed recently that in the event this property is rezoned, MFA Petroleum either would not be able to obtain a liquor license, or in order for one to be issued it would be necessary for Council to act in some fashion. Neither of these contentions are accurate. In the interest of trying to keep my presentation to you at the meeting on April 1 a manageable length, and in order to more fully address this issue, I submit the following:

Missouri's Revised Statutes, Section 311.080.1, provides that "No license shall be granted for the sale of intoxicating liquor, as defined in this chapter, within one hundred feet of any school, church or other building regularly used as a place of religious worship, unless the applicant for the license shall first obtain the consent in writing of the ... majority of the managing board of the church or place of worship." It is also possible for any city to institute a more restrictive ordinance, but no such ordinance is in place in the City of Columbia.

Approval of the rezoning should not be contingent upon granting of a liquor license, and whether MFA Petroleum Company may obtain such a license is a risk that should be on its shoulders not that of Council. There is no provision included in the state's statute by which Council or any other body may make any exception to the distance requirement included in Section 311.080. Rather, the only method by which an exception may be granted is with the written consent of the board of the church. Thus, this discussion is irrelevant to your decision on April 1.

Even if this discussion were relevant, however, any contention that a liquor license could not be issued for this store does not take into account the facts of this situation. The State of Missouri and the City both follow a policy that the measurement required under Section 311.080.1 is based on a measurement from building-to-building. In this case, the store itself is well in excess of one hundred feet from both the north and the west lot lines of this property. **Please see Exhibit A, attached hereto.** In fact, a building-to-building measurement shows that the distance

between the buildings would be 458 feet from the closest corner of The Crossing, and 413 feet from the closest corner of the Chinese Christian Church.

There was a case involving interpretation of this statute (and a corresponding city ordinance) to which some of you may have been referred, *State ex rel. Casey's General Stores, Inc. v. Kissinger*, 926 S.W.2d 191 (Mo. App. S.D. 1996). The facts in that case differ markedly from those present here: the City of West Plains prohibited liquor licenses within 300 feet of a church (Columbia has no similar ordinance), the application applied to the entirety of the property on which the store was located rather than only the building, and the distance between the two buildings was 284.3 feet (less than what was permitted in the ordinance). In that case, the Court simply looked at the measurements presented by the parties and determined that a measurement from the point of sale to the church building wasn't the right measurement, nor was a measurement from door-to-door. The Court held that since the building-to-building measurement was less than that provided for by city ordinance, a liquor license was not appropriate. The facts here are clearly not the same: the building-to-building measurement is well in excess of 100 feet, there is no ordinance in place in the City that is more restrictive than the state ordinance, and the application for a liquor license here will apply only to the building not to the entire property. If anyone has questions about the correct measurement to be used in making this determination, I would encourage you to contact Liquor Control at 573-751-2333. Or, you may certainly contact City staff about this matter.

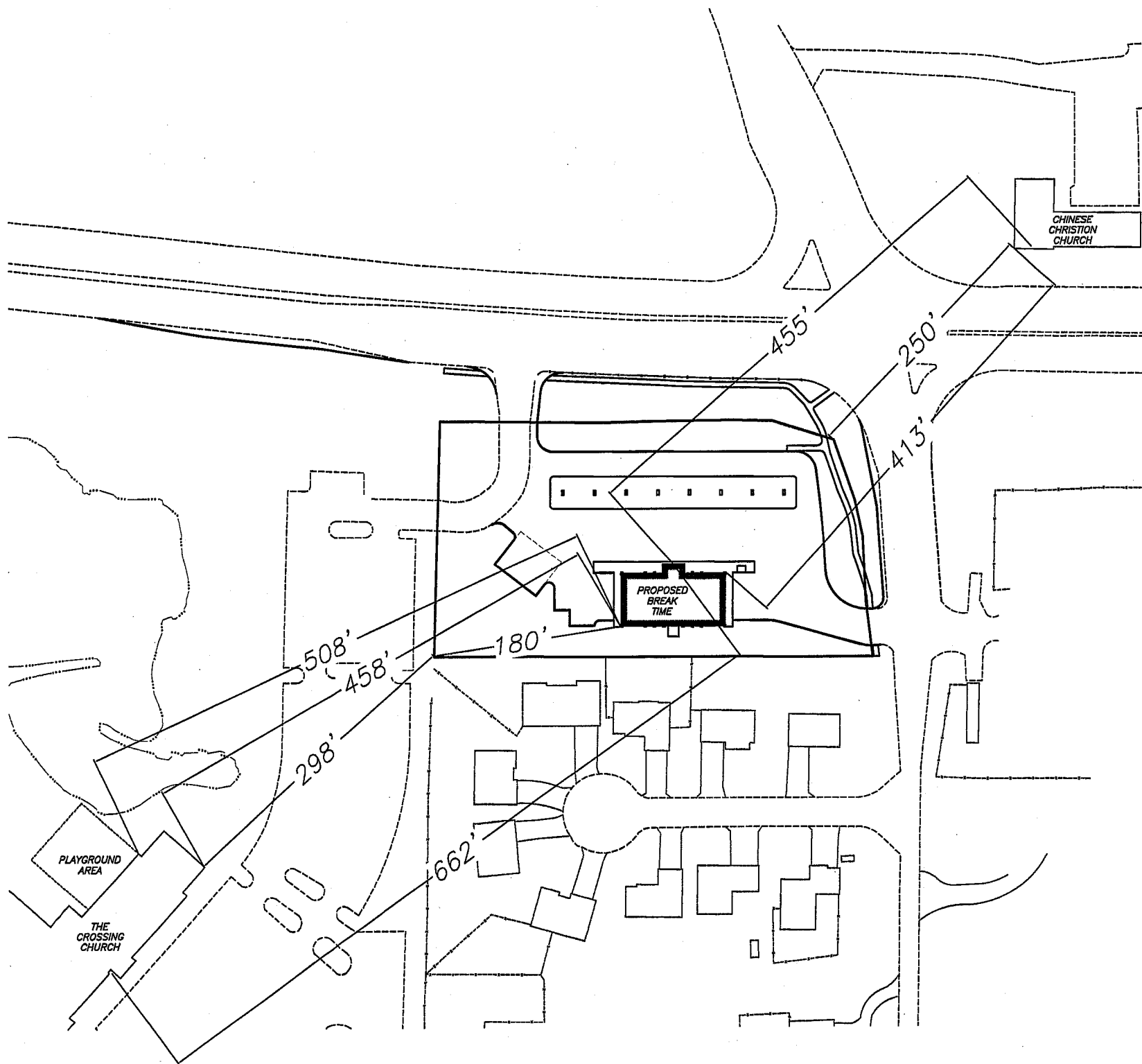
If you have any questions about this matter – or any other matter relevant to this proposed rezoning – please feel free to contact me or to ask me at the City Council meeting. I am happy to address any questions or concerns you may have, as is MFA.

Sincerely,

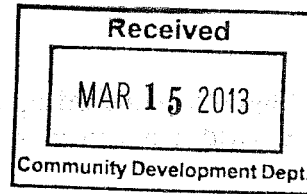
A handwritten signature in cursive script that reads "Phebe La Mar".

Phebe La Mar

Enc.



March 13, 2013



City Council Members
c/o Matt Lepke
City of Columbia
Community Development Department
701 E. Broadway
Columbia, MO 65201

Re: Grindstone and Rock Quarry Break Time C-P Plan
Case #13-06

Dear Council Members,

After further consideration, I have come to a better understanding of the MFA Oil Break Time project and feel comfortable with it going forward.

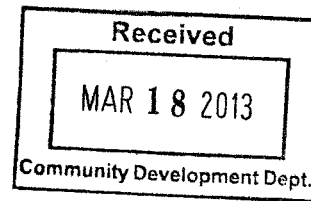
It is also my desire that you grant the variance request to place the 8' privacy fence directly on the property line between my property and the proposed rezoning site.

Sincerely,

A handwritten signature in cursive script, reading "Barbara A. Davis".

Barbara A. Davis
1705 Sun Court
Columbia, MO 65201

March 12, 2013



City Council Members

c/o Matt Lepke

City of Columbia

Community Development Department

701 E. Broadway

Columbia, Mo. 65201

Re: Grindstone and Rock Quarry Break Time C-P Plan

Case #13-06

Dear City Council Members,

After further consideration, we have come to a better understanding of the MFA project and feel comfortable with it going forward. We are also comfortable with the variance request with the 8' fence and trees between the two properties.

Thank you

Sincerely,

Thomas and Rhonda Bassett

1707 Sun Ct
Columbia, Mo. 65201

Keller & Company PC, CPA

1714 Paris Road

Columbia, Missouri 65201

Columbia City Council

Dear Council Members:

My name is Calvin Keller and I reside at 1906 Chapel Ridge Road. I'm the President of Keller & Company PC, CPA with offices at 1714 Paris Road. In addition I have attended The Crossing Church regularly for 5 years.

I am writing in support of the Breaktime Convenience Store that is proposed to be built adjacent to the church.

The traffic problem on the corner of Grindstone and Rock Quarry needs to be improved, partially due to the location of the church and our increasing attendance, which, we are hopeful will only continue to increase.

The insufficient infrastructure needs to be improved, and this can't be accomplished by any business other than a high-volume business. It would simply be infeasible and not make good business sense for something such as an office building or a daycare to be built on this corner since the rent and fees that would need to be charged in order to be profitable after making the infrastructure improvements that the City is requiring would price these types of businesses out of the market.

MFA's offer to put in another left turn lane going north and west would be of great value to the church, especially during the five hours on Sunday morning when we create a significant increase in the traffic pattern.

In conclusion, the old adage, "be careful what you wish for" is certainly applicable here - there could be a lot of worse businesses located here than a convenience store, and a lot worse convenience stores than Breaktime.

I hope that the Council will consider these points in making their decision.

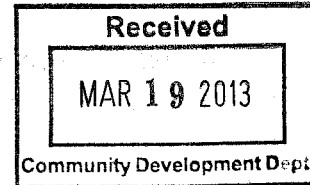
Yours truly,



Calvin Keller, CPA

March 13, 2013

City Council Members
c/o Matt Lepke
City of Columbia
Community Development Department
701 E. Broadway
Columbia, MO 65201



Re: Grindstone and Rock Quarry Break Time C-P Plan
Case #13-06

Dear Council Members,

After further consideration, we have come to a better understanding of the MFA Oil Break Time project and feel comfortable with it going forward.

We would also like for you to grant the variance request to place the 8' privacy fence directly on the property line between our property and the proposed rezoning site, per our discussions with Break Time.

Sincerely,

A handwritten signature in cursive script, appearing to read "Marc DiBlasi".

Marc DiBlasi

A handwritten signature in cursive script, appearing to read "Allison DiBlasi".

Allison DiBlasi

1703 Sun Ct.
Columbia MO 65201

RECEIVED MAR 21 2013

March 18, 2013

City Council Members
c/o Matthew Lepke
City of Columbia
Community Development Department
701 E. Broadway
Columbia, MO 65201

Re: Grindstone & Rock Quarry Break Time C-P Plan
Case #13-06

Dear City Council Members,

After further thought and consideration, and in light of satisfactory conversations about landscape and fencing concerns (an 8 foot privacy fence along the property line between my property and the proposed rezoning site), I am comfortable with the MFA Oil Break Time project going forward.

Sincerely,

A handwritten signature in black ink that reads "Sandra A. Nuzzarello, Trustee". The signature is written in a cursive, flowing style.

Sandra A. Nuzzarello, Trustee
1709 Sun Court
Columbia, MO 65201

Introduced by _____

First Reading _____

Second Reading _____

Ordinance No. _____

Council Bill No. B 71-13

AN ORDINANCE

rezoning property located on the southwest corner of Grindstone Parkway and Rock Quarry Road from District A-1 to District C-P; approving the Grindstone & Rock Quarry Break Time C-P Plan; approving less stringent screening and landscaping requirements; 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:

A TRACT OF LAND LOCATED IN THE SOUTHWEST 1/4 OF SECTION 30, TOWNSHIP 48 NORTH, RANGE 12 WEST, CITY OF COLUMBIA, BOONE COUNTY, MISSOURI, BEING PART OF LOT 1 OF LAPTAD SUBDIVISION AS RECORDED IN PLAT BOOK 17, PAGE 44, DESCRIBED BY THE WARRANTY DEED RECORDED AT BOOK 3219, PAGE 36 AND EXCLUDING THE PART DEEDED TO ROAD BY THE WARRANTY DEED RECORDED IN BOOK 1590, PAGE 642, ALL BEING RECORDS OF BOONE COUNTY, MISSOURI.

will be rezoned and become a part of District C-P (Planned Business District) and taken away from A-1 (Agricultural District). Hereafter the property may be used for the following permitted uses:

All permitted uses in District O-1

Alcoholic beverage sales by the package or as an accessory use to a restaurant

Buildings and premises for public utility services or public service corporations

Cleaning, pressing and dyeing establishments, provided that no explosive cleaning fluids shall be used

Car washes

Restaurants, cafes or cafeterias which provide no form of entertainment

Restaurants, cafes or cafeterias which provide live or recorded music, provided that such music is played indoors only and further provided that the music from any

such restaurant, cafe or cafeteria shall not be plainly audible at the property line of the property on which the building housing such restaurant, cafe or cafeteria is located

Service stations, provided all fuel storage tanks are located underground

Stores, shops and markets for retail trades and any retail or wholesale business or use of a similar character to those listed above, provided that such use is not noxious or offensive by reason of vibration, noise, odor, dust, smoke, gas, or otherwise

Customary accessory uses, including drive-up facilities, subject to the conditions set forth in Sec. 29-27 of the City Code

The statement of intent, marked "Exhibit A," is attached to and made a part of this ordinance.

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

SECTION 3. The City Council hereby approves the Grindstone & Rock Quarry Break Time C-P Plan, dated January 14, 2013, for the property referenced in Section 1 above. The Director of Community Development shall use the design parameters set forth in "Exhibit B," which is attached to and made a part of this ordinance, as guidance when considering any future revisions to the C-P Plan.

SECTION 4. The City Council approves less stringent screening and landscaping requirements than those set forth in Section 29-17(d)(6) of the Zoning Regulations so that a wood fence may be placed along the south property line and landscape screening may be placed on the interior side of the lot.

SECTION 5. This ordinance shall be in full force and effect from and after its passage.

PASSED this _____ day of _____, 2013.

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 #: <i>13-06</i>	Submission Date: <i>1-14-11</i>	Planner Assigned:
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Please provide the following information, which shall serve as the statement of intent for the proposed planned district zoning: For Grindstone & Rock Quarry Break Time C-P Plan.

1. The uses proposed.

All permitted uses in district O-1

Alcoholic beverage sales by the package or as an accessory use to a restaurant.

Buildings and premises for public utility services or public service corporations.

Cleaning, pressing and dyeing establishments, provided that no explosive cleaning fluids shall be used.

Car washes.

Restaurants, cafes or cafeterias, which provide no form of entertainment.

Restaurants, cafes or cafeterias which provide live or recorded music, provided that such music is played indoors only and further provided that the music from any such restaurant, cafe or cafeteria shall not be plainly audible at the property line of the property on which the building housing such restaurant, cafe or cafeteria is located.

Service Stations, provided all fuel storage tanks are located underground.

Stores, shops and markets for retail trades and any retail or wholesale business or use of a similar character to those listed above, provided that such use is not noxious or offensive by reason of vibration, noise, odor, dust, smoke, gas, or otherwise.

Customary accessory uses, including drive-up facilities.

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.

The maximum gross building floor area proposed is 7,500 Square Feet.

3. The maximum building height proposed.

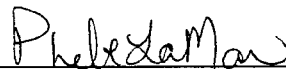
A maximum height is 26 feet.

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.

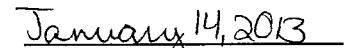
A Minimum of 30% open space is proposed for this site combining of both landscaping and existing vegetation preservation.

Note: At the discretion of the applicant, the statement of intent includes the following aspects of the proposed development:

5. The applicant agrees to provide a second left turn lane on Northbound Rock Quarry Road along with any accompanying requirements as required by the City of Columbia Traffic Engineer and MoDot Traffic Engineer.
6. The applicant agrees to provide a right turn deceleration lane along Grindstone to meet City of Columbia Traffic Engineer approval.
7. The applicant agrees to limit delivery times of fuel and all other products to between the times of 8am and 6pm.
8. The applicant agrees to limit dumpster pick up times to between 8am and 5pm, Monday-Friday.
9. The applicant agrees to install an eight foot Pedway along the Grindstone Parkway frontage of the property as shown on the C-P Plan.
10. If a variance is allowed by the City Council from the Scenic Roadway requirements, MFA Oil will agree to install a 8 foot privacy fence along the East Side of Rock Quarry Road Right of way adjacent to the Brittany Lane Neighborhood as requested by the Brittany Lane Neighborhood.



Signature of Applicant or Agent


Date



**City of Columbia
Planning Department**

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

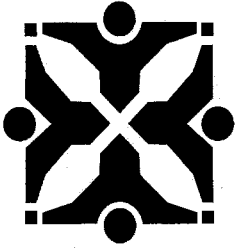
Design Parameters Worksheet

For office use:

Case #: <i>13-06</i>	Submission Date: <i>1-14-13</i>	Planner Assigned:
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Please provide the following information:

1. The minimum distance between any building and any adjacent property line or street right-of-way.
28 feet
2. The minimum distance between the edge of any driveway, parking area, loading area, trash storage area and any adjacent property line or street right-of-way.
8 feet
3. The maximum number of freestanding signs on the site, the maximum square footage of sign surface area and maximum height of each.
A maximum of 2 Freestanding signs, each with a maximum of 64 square feet of sign surface area, and a maximum height of 12 feet.
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. (not applicable to **M-R** districts)
A Minimum of 30% open space is proposed for this site combining of both landscaping and existing vegetation preservation.
5. The maximum height and number of light poles and type of fixtures.
The maximum height and number of light poles shall comply with chapter 29-30.1 of the City of Columbia code of ordinances.



Source: Community Development - Planning

Agenda Item No:

To: City Council

From: City Manager and Staff

Council Meeting Date: Mar 18, 2013

Re: 8 Ball Commercial/Break Time rezoning, C-P plan, and variance requests (Case #13-06)

EXECUTIVE SUMMARY:

A request by A Civil Group, on behalf of 8 Ball Commercial, for rezoning from A-1 (agricultural) to C-P (planned business); C-P development plan to be known as "Grindstone and Rock Quarry Break Time C-P Plan"; and variances to the landscaping/screening requirements and alteration within the scenic roadway overlay vegetative buffer area. The 2.05-acre site is located at the southwest corner of Grindstone Parkway and Rock Quarry Road. **(Case # 13-06)**

DISCUSSION:

The applicants request approval of a rezoning from A-1 to C-P, a C-P development plan, and variances to screening and landscaping and an improvement in the Scenic Roadway Overlay buffer area. Previous rezoning requests have been made on the site; the most recent, in 2012, received a positive recommendation from the Planning and Zoning Commission before being withdrawn before reaching the City Council.

The development plan illustrates a proposed convenience store/fueling station. Changes from the 2012 proposal include a reordering of the proposed landscaping and fence on the south side of the property (detailed on page two of the plan), so the fence would abut the neighbors' existing fence, with landscaping inside of the new fence between it and the building. This change requires one of the variances sought. A variance request to construct a fence on the east side of Rock Quarry Road along the frontage of the Brittany Lane neighborhood adjacent to the east side of the subject site has also been made, but the Director has determined that this must be reviewed by the Board of Adjustment because it is located off-site.

The compatibility of the proposed land use has been a focal point for this and previous proposals. Traffic considerations on both Rock Quarry Road and Grindstone Parkway have also been considered and debated. Various plans have been reviewed by City staff in making its recommendation on the request, as the plans do not call for this type of intense commercial use at this location.

At its March 7, 2013, meeting, the Planning and Zoning Commission voted 5-4 to approve the rezoning, C-P plan and on-site landscaping variance request - the variance sought for placement of the fence in the Rock Quarry Road Overlay east of the site was not considered. In rendering its recommendation, the Commission considered land use compatibility, traffic circulation, screening, lighting, and hours of operation for the proposed facility. The Commission supported the variance request based on the fact that the proposed revision was made at the request of the adjacent property owners.

Commissioners supportive of the proposal believed the use was best for the site and would meet surrounding consumer needs. Supportive Commissioners did not believe office or residential were unlikely based on the commercial nature of the Grindstone corridor. Commissioners not supportive of the proposal cited concerns of not following the recommendations of other adopted plans and the already existing abundance of nearby commercial to fill the needs of consumers. Commissioners voting against the proposal believed other options for development of the site existed.

Several residents spoke in opposition to the proposal citing traffic, land use incompatibility, and failure to respect adopted plans as reasons for seeking to have the project denied. Several residents spoke in favor of the proposal citing the opportunity for economic growth, meeting nearby consumer needs, and best utilization of existing infrastructure. The applicant, their attorney, and design professional spoke in favor of the project and answered Commissioner questions regarding the proposal.

A staff report, locator maps, a reduced size copy of the plan, statement of intent, design parameters, variance request and meeting excerpts are attached.

FISCAL IMPACT:

None.

VISION IMPACT:

<http://www.gocolumbiamo.com/Council/Meetings/visionimpact.php>

None.

SUGGESTED COUNCIL ACTIONS:

Approval of the rezoning and SOI, C-P development plan, and on-site variance as recommended by the Planning and Zoning Commission.

FISCAL and VISION NOTES:					
City Fiscal Impact Enter all that apply		Program Impact		Mandates	
City's current net FY cost	\$0.00	New Program/ Agency?	No	Federal or State mandated?	No
Amount of funds already appropriated	\$0.00	Duplicates/Epands an existing program?	No	Vision Implementation impact	
Amount of budget amendment needed	\$0.00	Fiscal Impact on any local political subdivision?	No	Enter all that apply: Refer to Web site	
Estimated 2 year net costs:		Resources Required		Vision Impact?	No
One Time	\$0.00	Requires add'l FTE Personnel?	No	Primary Vision, Strategy and/or Goal Item #	N/A
Operating/ Ongoing	\$0.00	Requires add'l facilities?	No	Secondary Vision, Strategy and/or Goal Item #	N/A
		Requires add'l capital equipment?	No	Fiscal year implementation Task #	N/A

**AGENDA REPORT
PLANNING AND ZONING COMMISSION MEETING
MARCH 7, 2013**

SUMMARY

A request by A Civil Group, on behalf of 8 Ball Commercial, for rezoning from A-1 (agricultural) to C-P (planned business); C-P development plan to be known as "Grindstone and Rock Quarry Break Time C-P Plan"; and variances to the landscaping/screening requirements and alteration within the scenic roadway overlay vegetative buffer area. The 2.05-acre site is located at the southwest corner of Grindstone Parkway and Rock Quarry Road. **(Case # 13-06)**

REQUESTED ZONING

C-P (Planned Business District), with the following development restrictions identified in the applicant's Statement of Intent:

a. Proposed uses	See attached (includes other commitments indicated in the SOI)
b. Maximum gross building floor area	7,500 sq. ft.
c. Maximum building height	26 feet
d. Minimum maintained open space (% of total site)	30 percent

DISCUSSION

The applicant requests approval of a rezoning and C-P development plan. Two variances related to the C-P plan are also sought. The most recent request for the site, made in 2012, received a positive recommendation from the Planning and Zoning Commission before being withdrawn prior to hearing by the City Council. Rezoning for the site has been previously requested four times (withdrawn three times, denied once). In 2007, staff suggested that low-intensity, neighborhood-oriented uses would be most appropriate, as well as the possibility of an O-P (planned office) or PUD (planned unit development—residential).

The development plan illustrates a proposed convenience store/fueling station. The applicant has attempted to address concerns about lighting spillover onto neighboring properties as well as noise mitigation with a dampening material over the HVAC unit and a landscape buffer consisting of an opaque fence and arborvitae plantings (please see detail on page two of the C-P plan).

Changes from the 2012 proposal include a reordering of the proposed landscaping and fence on the south side of the property (detailed on page two of

the plan), so the fence would abut the neighbors' existing fence, with landscaping inside of the new fence between it and the building. This change requires a variance request, which is sought. Another change is the inclusion of a variance request to construct a fence on the east side of Rock Quarry Road along the frontage of the Brittany Lane neighborhood adjacent to the east side of the subject site. The applicant's representatives indicate that neighbors in the Brittany Lane area have requested the fence, and a comment made to staff during the 2012 request by a Brittany Lane property owner indicated the same.

Land use compatibility

Adjacent uses are manufactured home residential to the east and single-family homes to the south. The Crossing Church borders to the west (and via an access easement currently uses the Grindstone Parkway access to the subject site). To the north, across Grindstone Parkway, is C-P zoned land, to be used as a park per the agreement approving the Grindstone Plaza commercial development.

The C-1 (intermediate business) district does not permit the proposed use, as the initial district in which it appears is the C-2 (central business) district. The C-1 district is the closest district in the Zoning Ordinance to a neighborhood commercial district.

The C-P plan's proposed signage for the site offers multiple locations and the applicant's statement of intent indicates a maximum of 64 square feet of sign area with a maximum height of 12 feet. The applicant's engineer has indicated that a monument-style sign located on Grindstone Parkway is the preferred location. Staff finds the single sign to be closer in type to those found at nearby developments along Grindstone, and therefore recommends this option.

Traffic circulation/Infrastructure

By its nature, a convenience store with fueling is an automobile-oriented business, designed for brief visits by many customers to the store and fuel pumps. The adjacent roads, Grindstone Parkway and Rock Quarry Road, are classified as a major arterial and major collector, respectively, making this a busy intersection—and therefore an attractive location for the proposed use.

Both City and MoDOT traffic engineers have reviewed the C-P plan in regard to how it would handle traffic entering and exiting the subject site. MoDOT finds that the proposed traffic improvements match what would be required of such a development. Both a deceleration lane for eastbound traffic on Grindstone and double left turn lane (and single through lane) for northbound traffic on Rock Quarry Road are proposed, as well as a left-turn lane on Rock Quarry Road into Brittany Lane to the east of the site. Public Works has also cleared the proposed roadway improvements.

As with many major arterials, the Grindstone Parkway corridor has utility capacity to support larger-scale developments. The site would be adequately served by adjacent utilities.

Consistency with existing plans/policies

The site is designated as a neighborhood district on the Metro 2020 plan that envisioned commercial nodes near the Nifong/Providence and Old 63/Grindstone intersections. Both nodes are less than one mile from the subject site, and both feature convenience stores/fueling stations. The Metro 2020 plan outlines two types of neighborhood commercial districts, discussed below.

The Rock Quarry Road Special Area Plan called for a mix of uses (including commercial) north of Grindstone; however, it did not provide land use recommendations. Staff does not find the proposed rezoning and plan appropriate for the south side of Grindstone abutting residential properties. The Rock Quarry Road plan did not discuss the area south of Grindstone.

The area plan proposed a "neighborhood common" commercial node northwest of the site on the north side of Grindstone/AC. The Grindstone Plaza and Red Oak developments have filled this role beyond what the Metro 2020 and Rock Quarry Road plans envisioned.

Two types of neighborhood commercial nodes were outlined in Metro 2020. The first, a neighborhood common, was to serve as a "central unifying element" to a neighborhood. It was to include an amenity such as a public park for nearby residents, and was to offer a "limited number of small office and retail uses which serve the residents."

A neighborhood market is listed as one of the uses appropriate for the common. Staff, however, does not find an auto-oriented convenience store/fueling station, which will generate a large amount of auto traffic, to meet the intended use outlined by Metro 2020.

The neighborhood common section of Metro 2020 states, among other compatibility guidelines, that "all nonresidential uses should have limited signage requirements and attract no more than a limited amount of traffic from outside the neighborhood." As the site is located on one of the main thoroughfares across the south side of the city, and the facility's placement is to capture this large amount of traffic passing by, it is difficult to assert that the traffic would be primarily local in origin.

The "neighborhood marketplace," the second commercial node outlined in Metro 2020, more closely fits the proposed use, in some respects, as outlined in the C-P plan. This type of retail use is to serve several neighborhoods and higher density residential areas, "if developed at a scale compatible to the surrounding area." The Break Time would be located at the intersection of an arterial street

(the plan refers to arterial streets plural; Rock Quarry is a major collector) that serves as a neighborhood boundary.

The differences between the proposed development and the neighborhood marketplace concept come into focus when square footage, market area, and spacing between neighborhood marketplace nodes are discussed. The nearby Red Oak/Grindstone Plaza development is less than one-half mile away, and contains a variety of uses, though currently no convenience store or fueling station. This type of development is described in Metro 2020 as "between 30,000 and 100,000 square feet...and contain a mix of retail and office uses."

With two convenience stores less than one mile in either direction from the subject site, it is difficult to assert the need for another, particularly when it is the sole use for the site on the current C-P plan and is proposed as a standalone use rather than as part of a larger neighborhood marketplace development as described by Metro 2020.

The property is also subject to the standards of the Rock Quarry Road scenic overlay district and vegetative buffer, which extends 83 feet in either direction from the centerline of the road. The applicant has proposed a variety of landscaping within the buffer, as well as monument signs facing east-west traffic on Grindstone Parkway and at the intersection of Grindstone and Rock Quarry.

The proposed landscaping at the south property line would also be located in a portion of the buffer area (though the accompanying fence would not), and would contain a combination of features to mitigate noise, light, and pedestrian trespassing issues. Clearing of vegetation is only permitted in limited instances (e.g. street/sidewalk construction; clearing to provide drainage, utilities, and sight clearances to a property; mowing and removal of dead/dying trees; agricultural activities), though installed landscaping may be added to the buffer to meet the landscaping requirements prescribed in the Zoning Ordinance.

Variance requests

The applicant has requested two variances. The first is to accommodate the change in landscaping on the south side of the proposed building, wherein a new fence would be built adjacent to the existing neighbors' fence. The applicant's engineer indicates this is at the request of the adjacent property owners. Under Section 29-17(d)(6), landscaping is to be placed to the exterior of a fence when both are used to provide screening for adjacent properties. Staff has not been contacted by any of the neighbors immediately to the south about this case so it cannot confirm their desire, but encouraged the applicant's representatives to engage nearby property owners in regard to potential site alterations.

The other variance request is to construct a privacy fence, per the request of a Brittany Lane property owner, on the east side of Rock Quarry Road along the Brittany Lane development's street frontage.

Upon further review by the Community Development Director, this variance must proceed through the Board of Adjustment, which was the applicant's original intent. This is due to the fact that the variance is for another property other than this application's subject site, and the variance would be for an off-site improvement. Such a request must also be made by the property owner(s) of the land on which the fence would be constructed.

A property owner with whom staff spoke in 2012 on this issue indicated the fence was desirable for security purposes. A variance to Section 29-12.2(c)(2)b, part of the Scenic Roadway Overlay Area, is necessary to construct the fence within the 83-foot wide vegetative buffer along Rock Quarry Road, which does not provide for such an improvement.

STAFF RECOMMENDATION

Staff recommends denial of the rezoning and C-P plan requests. Staff does not find the proposed commercial uses appropriate for this location, given the size of the parcel and its immediate proximity to residences.

Should the Commission wish to approve the rezoning and plan, staff recommends revisions to the C-P development plan, such as (but not limited to) the hours of operation for the convenience store and fueling pumps.

Staff recommends denial of the variance request to transpose the order of the landscaping and screening, but commends the applicant's representatives for engaging adjacent property owners and seeking solutions to screening issues. Should these property owners voice support for the variances, staff does not have any opposition to their implementation.

SITE CHARACTERISTICS

Area (acres)	2.05
Address	3407 Rock Quarry Road
Topography	Sloping downward from east to west
Vegetation	Trees, grass
Watershed	Hinkson Creek

SURROUNDING LAND USES

Orientation from site	Zoning District	Land use
North	C-P	Vacant
South	R-1	Single-family residential
East	A-1	Manufactured homes
West	A-1	Church

SITE HISTORY

Annexation date	1969
Initial zoning designation	A-1
Previous rezoning requests	1970: R-3, denied by Council 1983: R-1, withdrawn prior to Planning Commission 2007: C-P, withdrawn prior to Council after negative recommendation by Planning Commission 2012: C-P, withdrawn prior to Council after positive recommendation by Planning Commission
Metro 2020 Plan designation	Neighborhood
Existing use(s)	Single-family home, accessory structure
Existing zoning	A-1

UTILITIES & SERVICES

Sanitary Sewer	All City of Columbia services
Water	
Electric	
Fire Protection	

ACCESS

Grindstone Parkway – north of site	
Major Roadway Plan classification	Major arterial
Capital Improvement Program projects	Description: None Cost: Timeline:

Rock Quarry Road – east of site	
Major Roadway Plan classification	Major collector (varied right-of-way currently exists)
Capital Improvement Program projects	Description: None Cost: Timeline:

PARKS & RECREATION

Neighborhood Parks Plan	None adjacent; Rock Quarry Park nearby to east
Trails Plan	None
Bicycle/Ped Plan	Both Grindstone and Rock Quarry are urban pedways

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 January 29, 2013.

Public information meeting recap	Number of attendees: 11, including the applicant's representatives Comments/concerns: Several, including traffic, crime, drugs, property value, noise, proximity to other convenience stores/gas stations
Neighborhood Association(s) notified	Grindstone/Rock Quarry
Correspondence received	Letter of opposition (please see attached to report)

Report prepared by ML

Approved by PRZ



**Case 13-6: C-P Development Plan
Grindstone & Rock Quarry Break Time**

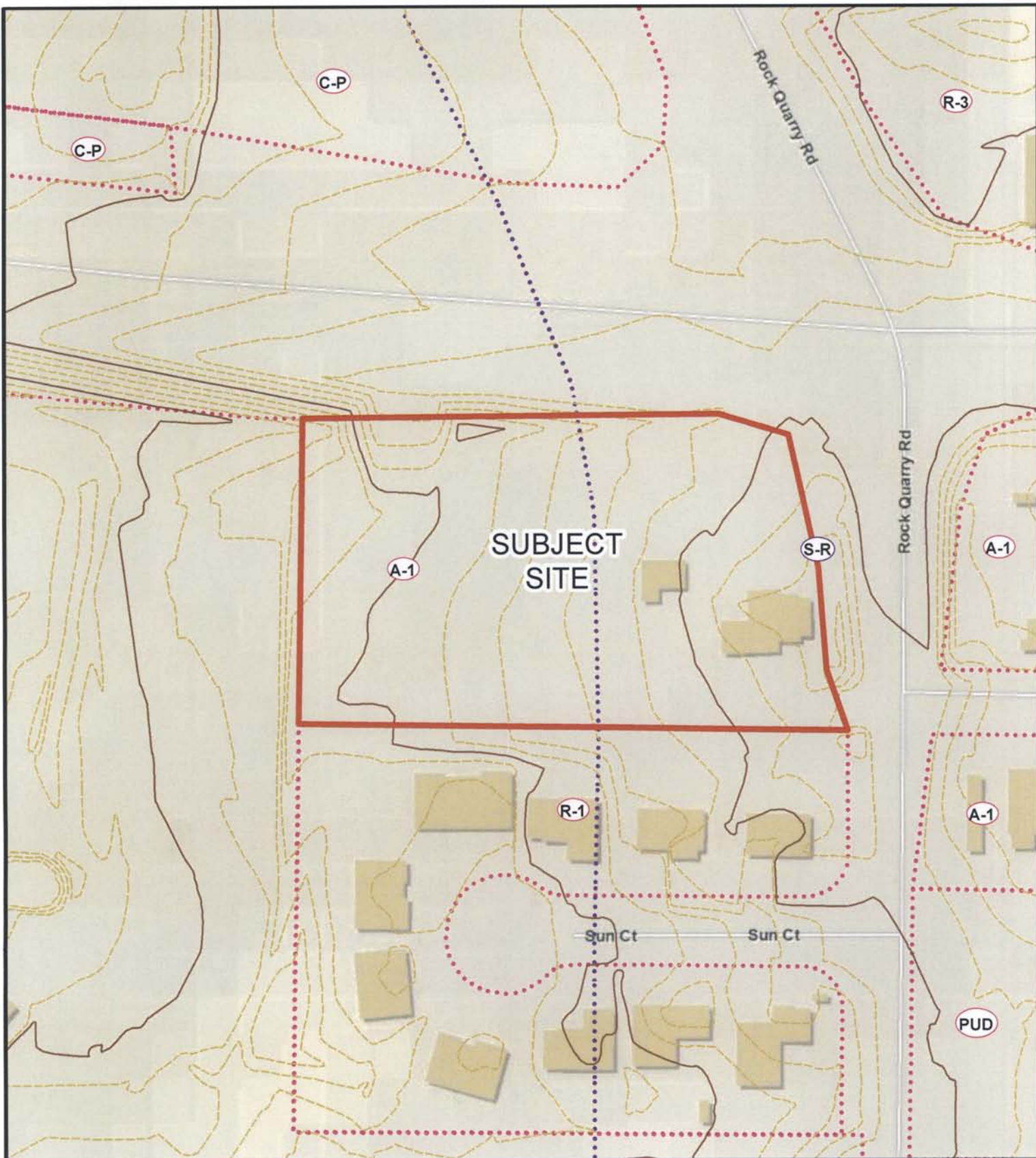


2011 Orthophoto
Source: Boone County Assessor



1 inch = 200 feet





**Case 13-6: C-P Development Plan
Grindstone & Rock Quarry Break Time**



1 inch = 100 feet

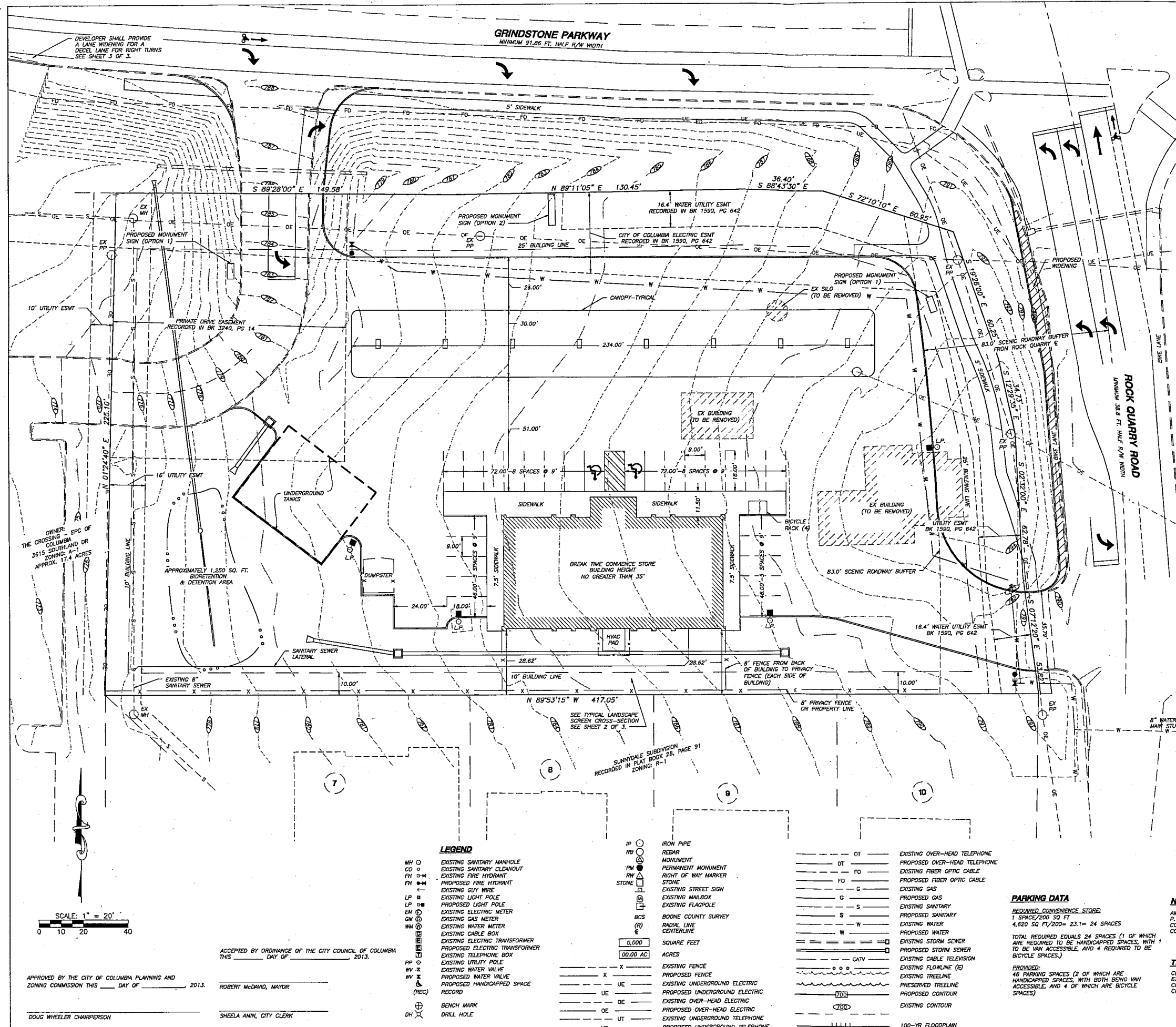


JANUARY 14, 2013

LOCATION MAP
NOT TO SCALE

NFA OIL, INC.
C/O JACKIE MAXWELL
ONE RAY YOUNG DR.
PO BOX 519
COLUMBIA, MO 65205
(573) 442-0171

CITY OF COLUMBIA
P.O. BOX 6015
WATER & LIGHT DEPARTMENT
COLUMBIA, MISSOURI 65205
CONTACT: JONI TROYER
(573) 874-7321



GRINDSTONE PARKWAY

C-P LANDSCAPING PLAN
GRINDSTONE & ROCK QUARRY
BREAK TIME C-P PLAN
JANUARY 14, 2013

TREE PRESERVATION NOTES

1. NO EXISTING CLIMAX FOREST EXISTS ON THIS SITE.
2. EXISTING TREES THAT FALL WITHIN THE SCENIC ROADWAY EASEMENT SHALL BE PRESERVED, AND WILL REQUIRE PROTECTIVE FENCING AROUND THEM BEFORE AND DURING CONSTRUCTION.

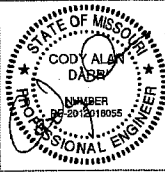
LANDSCAPING NOTES

1. ALL DISTURBED AREAS SHALL BE SEEDED & MULCHED AFTER CONSTRUCTION.
2. LANDSCAPING MAY BE ENHANCED BY THE DEVELOPER AS TIME AND BUDGET ALLOWS.

TREES			
SYMBOL	QUANTITY	COMMON NAME	SIZE
	5	AUTUMN BRILLIANCE (R) APPLE SERVICEBERRY	6'-7'
	3	BALD CYPRESS	2.5" B&B
	2	EASTERN REDBUD	2" B&B
	2	FRONTIER ELM	2.5" B&B
	2	IVORY SILK TREE LILAC	1.5" B&B
	1	RIVER BIRCH	10"-12" CLUMP
	4	SPRING SNOW CRABAPPLE	2" B&B
	6	WARREN'S RED POSSUMHAW	#7
CONIFERS			
	48	GREEN GIANT ARB	5" B&B
SHRUBS			
	6	KNOCK OUT(TM) SHRUB ROSE	3 GAL
	2	DWARF BURNING BUSH	24" B&B
	2	GREEN MOUNTAIN BOXWOOD	24-30" B&B
	17	SAYBROOK GOLD JUNIPER	3 GAL
	29	GRO-LOW FRAGRANT SUMAC	3 GAL
PERENNIALS AND ANNUALS			
	27	LITTLE SPIRE RUSSIAN SAGE	1 GAL
	5	STELLA DE ORO DWARF DAYLILY	1 GAL
	28	GOLDSTURM BLACK EYED SUSAN	1 GAL
	28	PURPLE CONEFLOWER	1 GAL

TOTAL AREA OF LOT= 2.05 AC. = 89,301 SQ.FT.
TOTAL PAVED AREA= 45,532 SQ.FT. (51.0%)
TOTAL FUTURE BUILDING AREA= 5,116 SQ.FT. (5.7%)
TOTAL IMPERVIOUS AREA= 50,648 SQ.FT. (56.7%)
TOTAL AREA OF LANDSCAPING= 38,652 SQ.FT. (43.3%)
45,532 SQ. FT. / 4,500= 10.1 OR 11 TREES REQUIRED.
16 NEW TREES SHOWN ON SITE.

BUFFER CALCS:
NO PARKING AREAS ARE WITHIN 20 FEET OF STREET RIGHT-OF-WAY. THEREFORE, NO SCREENING SHALL BE REQUIRED BETWEEN THE PARKING LOT AND THE STREET RIGHT-OF-WAY.



CODY ALAN DARR PE-2012018055
2/9/2013
DATE

THIS SHEET HAS BEEN SIGNED, SEALED AND DATED ELECTRONICALLY

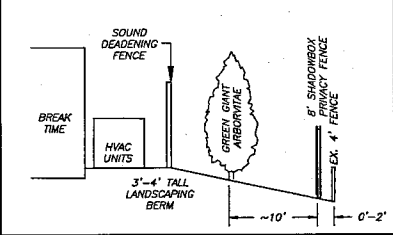


A CIVIL GROUP
CIVIL ENGINEERING, PLANNING, SURVEYING & DESIGN
BROADWAY BUSINESS PARK COURT
SUITE 105
COLUMBIA, MO 65205
PHONE: (679) 881-9950 FAX: (679) 881-1071
MISSOURI CERTIFICATE OF AUTHORITY # 220100046

JOS13.01

SHEET 2 OF 3

LANDSCAPING DESIGN PROVIDED BY
COLUMBIA LANDSCAPE
C/O MIGUEL RIOS & DAVID VANCE



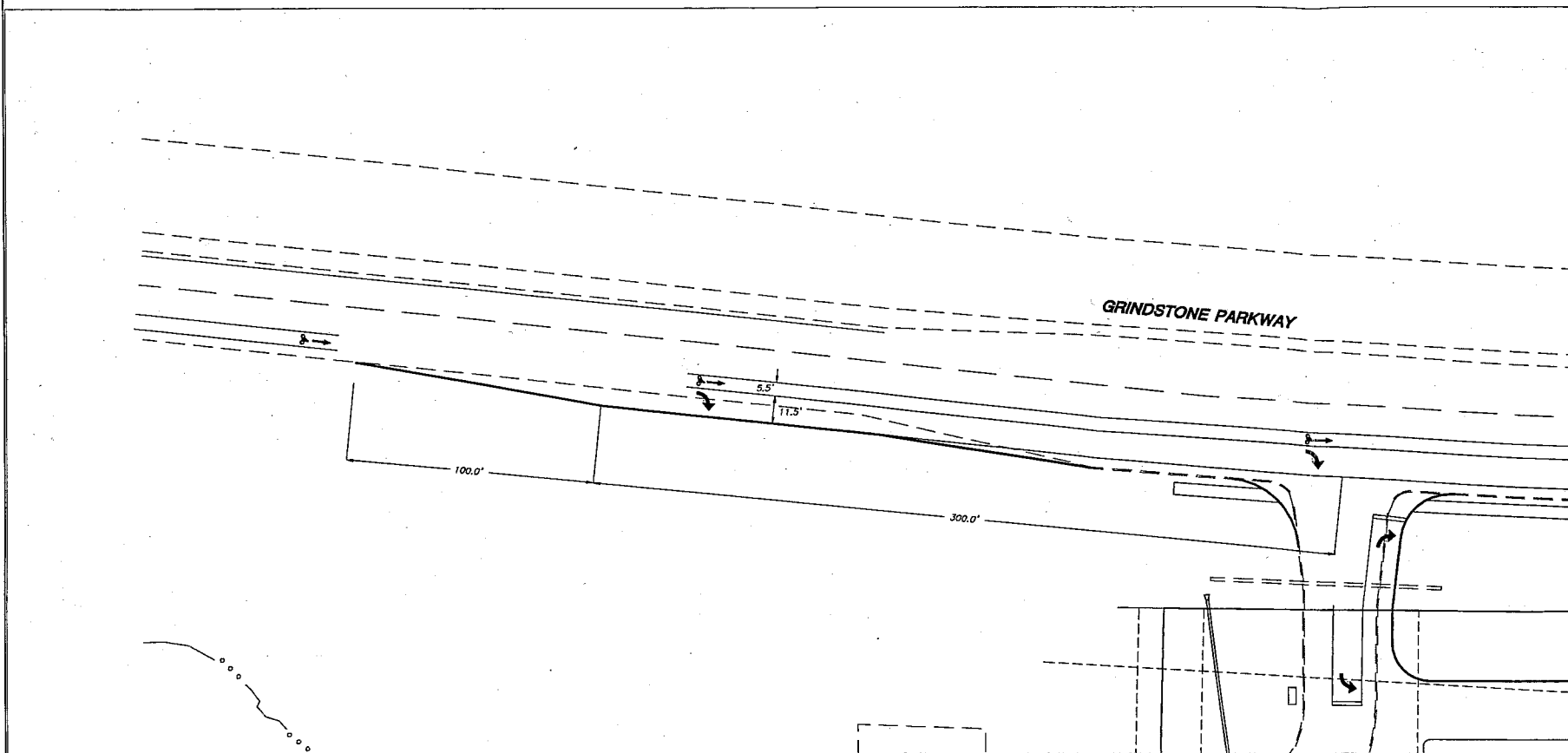
OWNER: EPC OF COLUMBIA
3815 SOUTHLAND DR
COLUMBIA, MO 65205
APPROX. 17.4 ACRES

REQUIRED SCREENING
ALONG THIS PROPERTY
LINE

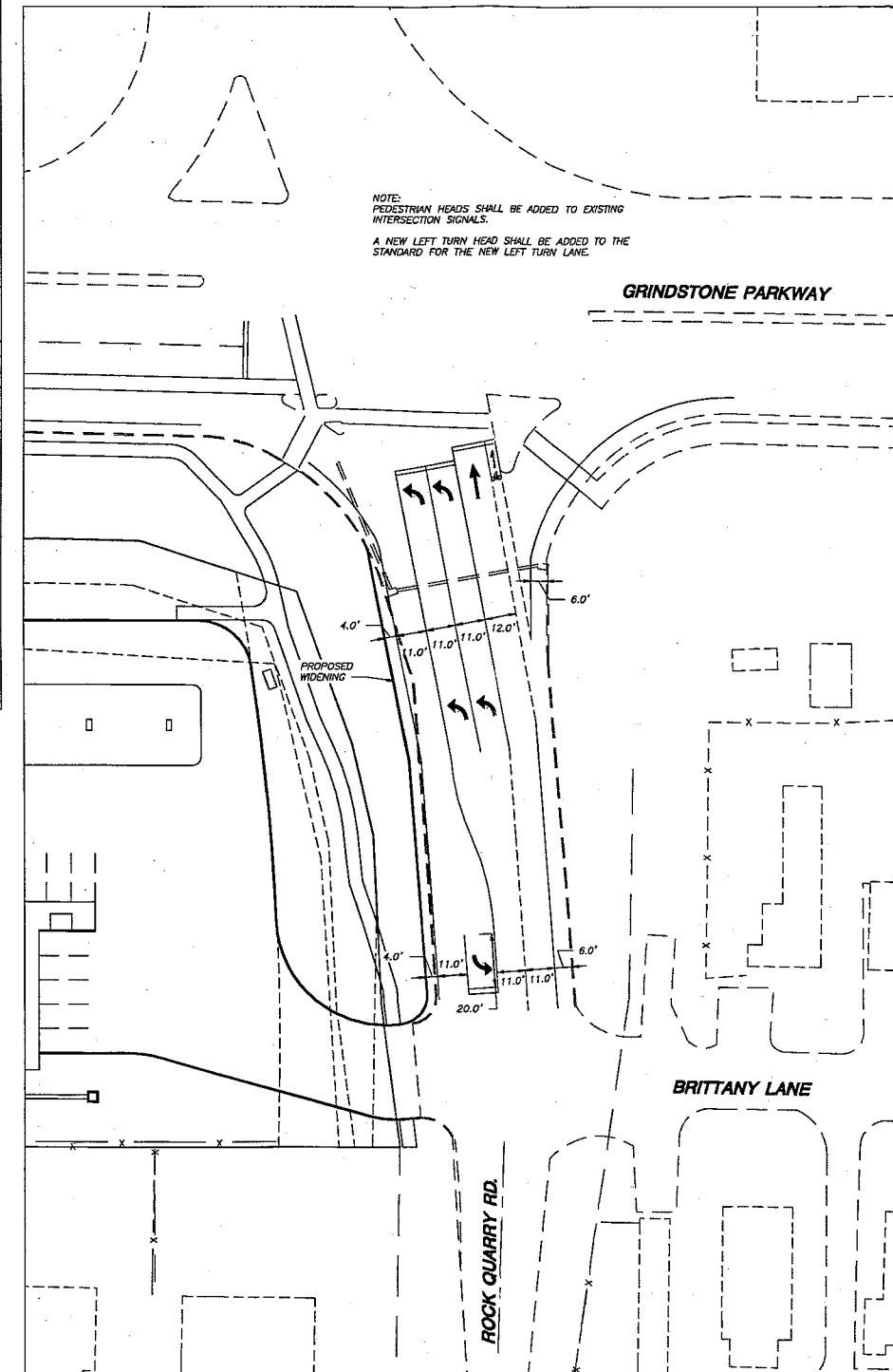
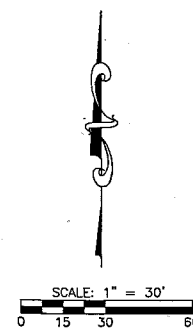
SCALE: 1" = 20'
0 10 20 40

C-P OFF-SITE IMPROVEMENTS PLAN
**GRINDSTONE & ROCK QUARRY
 BREAK TIME C-P PLAN**
 JANUARY 14, 2013

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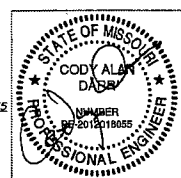


DECELERATION LANE NOTES
 PRELIMINARY RIGHT LANE DECELERATION LENGTH
 WAS DETERMINED USING AASHTO GREEN BOOK
 2004, PAGES 714 AND 715.
 TAPER LENGTH = 100 FEET
 AS RECOMMENDED FOR MUNICIPALITIES AND
 URBAN COUNTIES FOR A SINGLE-TURN LANE.
 DECELERATION LENGTH = 300 FEET FROM TAPER
 TO CENTERLINE
 275 FEET RECOMMENDED FOR TOTAL LENGTH
 NEEDED TO DECELERATE TO A STOP FROM 40
 MPH. 40 MPH WAS USED ASSUMING 10 MPH
 DECELERATION IS ACCOMPLISHED BEFORE
 ENTERING THE RIGHT TURN LANE. THIS IS
 COMMONLY CONSIDERED ACCEPTABLE ON
 ARTERIAL ROADWAYS, PER AASHTO.
 STORAGE LENGTH HAS BEEN DISREGARDED SINCE
 CARS ARE NOT EXPECTED TO HAVE TO STOP
 BEFORE MAKING THE RIGHT TURN.



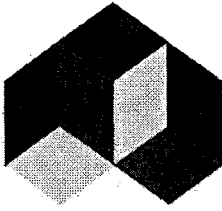
A CIVIL GROUP
 CIVIL ENGINEERING, PLANNING, SURVEYING, 1401
 BROADWAY BUSINESS PARK COURT
 SUITE 105
 COLUMBIA, MO 65201
 PHONE: (573) 441-5755, FAX: (573) 441-1471
 MISSOURI CERTIFICATE OF AUTHORITY # 320100016

CODY ALAN DARR PE-2012018055
 2/8/2013
 DATE



THIS SHEET HAS BEEN SIGNED, SEALED
 AND DATED ELECTRONICALLY

JOS13.01



A CIVIL GROUP

CIVIL ENGINEERING • PLANNING • SURVEYING

February 5, 2013

Tim Teddy
Director of Community Development
City of Columbia
701 E. Broadway
Columbia, MO 65201

RE: Landscaping & Screening Variance Request - Grindstone and Rock Quarry Break Time C-P Plan

Dear Mr. Teddy,

On behalf of the applicants, 8 Ball Commercial and MFA Oil, we would like to formally request a variance to Section 29-17(d)(6), which states the following:

- (6) *Screening and landscaping.* The provisions of Sec. 29-25 shall apply.
“...In the event a masonry wall or wood fence is used, landscaping shall be placed between the wall or fence and the property line to form an ornamental screen....”

The applicant is requesting – based on the expressed preferences of the neighboring property owners – to reverse the position of the proposed wood fence and proposed tree screen so that the wood fence is directly on the property line and the tree screening is behind the fence, on the interior side of the lot.

We would also like to request a variance to Section 29-21.2(c)(2)b, which states the following:

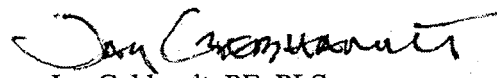
- (2) *Vegetative Buffer.* The vegetative buffer is hereby defined as the portion of the site:
“b. within eighty three (83) feet of the centerline of a collector street”

The applicant is requesting – based on requests from these property owners – to construct an 8' tall wooden, shadow box style, fence on the east side of Rock Quarry road and across from the subject site, just outside the Right-of-Way to reduce any potential lighting or noise effects from the proposed development onto the existing subdivision.

Further discussions with the neighbors, in which they have voiced their preference for these arrangements, have led us to request these variances.

We ask that these variance requests be considered separately. Please let me know if you have any questions.

Thank You,


Jay Gebhardt, PE, PLS

3401 Broadway Business Park Ct, Suite 105
Columbia, Missouri 65203
PHONE: 573-817-5750 FAX: 573-817-1677



**City of Columbia
Planning Department**

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

Variance Worksheet

For office use:

Case #:	Submission Date:	Planner Assigned:
---------	------------------	-------------------

Where the Planning and Zoning Commission finds that undue hardships or practical difficulties may result from strict compliance with the City's Subdivision Regulations, it may recommend and the Council may approve variances so that substantial justice may be done and the public interest secured, provided that any such variance shall not have the effect of nullifying the intent and purpose of the Subdivision Regulations.

The Commission shall not recommend variances unless it finds and determines that the following criteria are met¹. Please explain how the requested variance complies with each of the below requirements:

1. The granting of the variance will not be detrimental to the public safety, health or welfare or injurious to other property or improvements in the neighborhood in which the property is located.

Placing trees on interior side of the lot from the fence will provide no more detrimental effect then as if they were placed on the property line side and in fact could possibly be less hazardous by eliminating the confined and hidden strip of land between the existing fence and the proposed fence.

2. The conditions upon which the request for a variance is based are unique to the property for which the variance is sought, are not applicable generally to other property, and are not self-imposed.

This request is based upon immediately adjacent neighbor input and preference.

3. Because of the particular physical surroundings, shape or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of these regulations was carried out; and

Not applicable to this situation. Request is based on trying to meet adjacent neighbor request and preference in screening.

4. The variance will not in any manner abrogate the provisions of the comprehensive plan of the City.

This variance will not abrogate the provisions of the comprehensive plan of the City.

¹ Per Section 25-20: Variances and exceptions



**City of Columbia
Planning Department**

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

Variance Worksheet

For office use:

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Where the Planning and Zoning Commission finds that undue hardships or practical difficulties may result from strict compliance with the City's Subdivision Regulations, it may recommend and the Council may approve variances so that substantial justice may be done and the public interest secured, provided that any such variance shall not have the effect of nullifying the intent and purpose of the Subdivision Regulations.

The Commission shall not recommend variances unless it finds and determines that the following criteria are met¹. Please explain how the requested variance complies with each of the below requirements:

1. The granting of the variance will not be detrimental to the public safety, health or welfare or injurious to other property or improvements in the neighborhood in which the property is located.

The proposed fence on the east side of Rock Quarry would not have a detrimental effect to the above mentioned factors. The nature of the scenic roadway ordinance is to preserve and enhance the beauty of the road and the banning of fences inside the vegetative buffer is intended to combat a degradation of the appearance and feel of the road. Since a fence is a commonly accepted and constructed structure, the only potential effects would be to the visual appearance of the roadway.

2. The conditions upon which the request for a variance is based are unique to the property for which the variance is sought, are not applicable generally to other property, and are not self-imposed.

This request is based upon immediately adjacent neighbor input and preference.

3. Because of the particular physical surroundings, shape or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of these regulations was carried out; and

Request is based on trying to meet adjacent neighbor request and preference in screening. Although it is true that the fence cannot be placed outside the scenic roadway vegetative buffer due to existing development of the mobile home lots.

4. The variance will not in any manner abrogate the provisions of the comprehensive plan of the City.

This variance will not abrogate the provisions of the comprehensive plan of the City.

¹ Per Section 25-20: Variances and exceptions

Dan and Jan Pritchard
3505 Rock Quarry Road
Columbia, MO 65201
e-mail: jpritcha@socket.net

January 29, 2013
~~July 23, 2012~~

Matthew Lepke
City of Columbia Planning and Development Department
e-mail: mjlepke@gocolumbiamo.com

RE: Rezoning of property at 3407 Rock Quarry Road

Dear Mr. Lepke :

8 Ball Commercial and MFA Oil Company have requested that the zoning of the property located on the southwest corner of Grindstone Parkway and Rock Quarry Road be changed from A-1 to C-P for purposes of erecting a 24-hour Break Time Convenience Store and gas station, among other commercial uses. We are writing to request that the Columbia planning department reject this proposal as an inappropriate use for this parcel.

The development which Break Time is proposing is for the construction of the largest Break Time convenience store and gas station in Columbia. This type of development belongs along Highway 63 not in a residential neighborhood.

We have been able to locate no other Break Time or other gas station/convenience store located immediately adjacent to single family homes elsewhere in Columbia. In the 33 years that we have lived in Columbia, and specifically in the past twenty years when we have been very involved with re-zoning issues, the city has never permitted the rezoning of property directly adjacent to single family housing for the purpose of building a gas station or convenience store with the possible exception of those cases where the property had been grandfathered in for commercial use or the commercial use was part of a comprehensive neighborhood plat for new development. This is true even along the various state highways that pass through Columbia, Stadium Boulevard, Providence Road, Route B, Rangeline and others.

Our neighborhood is not asking for special treatment, we are asking to be treated just like every other single-family neighborhood in Columbia. The city would never consider such a use appropriate in any other single-family neighborhood, even those located on the state roads mentioned above. The city would never consider approving the requested rezoning for a residential lot adjacent to other single-family residences on Stadium Boulevard or in any other residential neighborhood in Columbia. Nor should it allow the rezoning being proposed for 3407 Rock Quarry Road. We are only requesting equitable treatment for our neighborhood.

The Southland Drive, Highland Court and Sun Court neighborhoods are some of the oldest and most stable single family neighborhoods in south Columbia. The homes in these neighborhoods range in age from 15 years to 60 or more years old. The farmhouse located on

the subject parcel is probably close to 100 years old. Most of the homes are owner-occupied by long-term residents. We have lived in our house over 20 years.

The proposed 24-hour Break Time store and gas station would back up directly onto Sun Court. The store building, which would be open for business 24 hours a day, would be situated extremely close to the south property line, and would closely encroach upon the homeowners' back yards and homes. The only available access to the site is the right in/right out driveway easement for the Crossing Church off of Grindstone Parkway and the existing residential driveway access onto Rock Quarry Road.

Almost identical rezoning was requested for this same property several years ago and was denied by the city. The only thing that has changed in the neighborhood since that time has been an increase in the amount of residential housing and more traffic congestion at the Grindstone/Rock Quarry intersection. If commercial use for this property was not an appropriate use several years ago, it certainly is not an appropriate use of this property now.

In 1997, Rock Quarry Road was designated as a scenic road. The only commercial development on Rock Quarry Road is the business development along Stadium Boulevard which pre-dated the scenic road designation. Since the scenic road designation was enacted, the only development along this historically agricultural and residential road has been for residential purposes. The city planning department is on record as stating that it considers Rock Quarry Road to be the dividing line between more densely developed residential property on the east side of the road and less dense single-family development along the west side of the road. It would be disingenuous, not to say suspect, for the city planning department to now contend that a 24-hour convenience store and gas station comports with its previous assertion that the west side of Rock Quarry Road should be developed for low density residential use.

It should be noted that in recognition of the uniqueness of the Rock Quarry Road scenic road corridor the developers of Grindstone Plaza dedicated the two acres directly across from the subject site on the northwest corner of Grindstone Parkway and Rock Quarry Road as undeveloped park land. Whatever one's idea of a scenic road might be, it surely does not include a 24-hour convenience store and gas station.

8 Ball Commercial and MFA Oil Company contend that the proposed location would be well-served by a 24-hour convenience store and gas station. However, Break Time could serve the identical customers by locating this business just one block west at Red Oak and Grindstone Parkway or one block east across the street from Rock Quarry Park or just past there at Bearfield Road and Grindstone Parkway on land which is already zoned C-P. Unlike the parcel at 3407 Rock Quarry Road, all of these sites are currently zoned for commercial use and have access from both the east and west along Grindstone Parkway; Red Oak and Bearfield have signaled access onto Grindstone Parkway.

To date all the commercial development along Grindstone Parkway between Buttonwood on the west and Ponderosa on the east is located on the north side of the Parkway, with residential property, church property, and parkland on the south side of the Parkway. The only land on the south side of Grindstone Parkway that is zoned for possible commercial development, the Red Oak tract, is currently being developed for residential use as well. The

city has always maintained that it wanted Grindstone Parkway to remain a parkway and not be turned into another business loop. Maintaining the present residential use of the land all along the south side of Grindstone Parkway is an effective way to balance the commercial use of the land along the north side of the Parkway. In addition, the abundance of land in this area which is currently zoned commercial should be developed before adding additional commercial zoning. The fact that there has been little commercial development in this area indicates that commercial use is probably not the best use for this property.

When the C-P zoning for the Red Oak development just to the west of The Crossing Church was approved liquor sales, gas stations, and convenience stores were specifically excluded from the permitted uses for the property. This was the result of negotiations with the Crossing Church and the local neighborhood. We believe that the reason that the Crossing Church has not taken a position against this rezoning request is that the church must rely on the present owner of the subject parcel for access to the church's driveway easement onto Grindstone Parkway. It should be pointed out that when the Crossing Church was not under similar constraint, it was an active participant in the discussions which led to the use restrictions for the Red Oak development noted above. If gas stations and convenience stores are not an appropriate use for the land on the west side of the Crossing Church these are certainly not an appropriate use for the land which backs up directly on the single family homes located on the east side of the church.

The Southland neighborhood and the Highland Court and Sun Court residents realize that the subject parcel may eventually be developed for a use other than residential. An appropriate higher use for this parcel would be for professional office space much like that currently being developed on the southwest corner of West Broadway and Stadium Boulevard. Office use would be limited to normal business hours, it would not attract crime to the neighborhood, and it could easily use the limited access to this parcel without further congestion of the Grindstone Parkway, Rock Quarry Road intersection. This type of low-impact office development would easily comport with scenic road overlay zoning along Rock Quarry Road and would not adversely affect the existing property values in the area.

We urge you to recommend that the requested zoning change for this property be denied. This development would destabilize one of Columbia's long-established residential neighborhoods and would severely compromise the only designated scenic road in Columbia. Break Time can easily locate a convenience store /gas station along Grindstone Parkway either one block east or one block west of Rock Quarry Road on land which is already zoned for such intensive development. Unfortunately our neighbors and we would not be able to restore the value of our neighborhood or the integrity of the scenic road if the zoning change and commercial development of this parcel is approved.

Thank you for your attention to this matter.

Sincerely,

Jan and Dan Pritchard









EXCERPTS
PLANNING AND ZONING COMMISSION
MARCH 7, 2013

13-06 A request by A Civil Group, on behalf of 8 Ball Commercial, for rezoning from A-1 (agricultural) to C-P (planned business district); C-P development plan to be known as “Grindstone and Rock Quarry Break Time C-P Plan”; and variances to the landscaping/screening requirements and alteration within the scenic roadway overlay vegetative buffer area. The 2.05-acre site is located at the southwest corner of Grindstone Parkway and Rock Quarry Road. *(Item was carried forward from February 21, 2013 meeting due to weather-related cancellation.)*

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 denial of the rezoning and C-P plan requests. Staff does not find the proposed commercial uses to be appropriate for this location, given the size of the parcel and its immediate proximity to residences. Should the Commission wish to approve the rezoning and plan, Staff recommends revisions to the C-P development plan, such as (but not limited to) the hours of operation for the convenience store and fueling pumps. Staff recommends denial of the variance request to transpose the order of the landscaping and screening, but commends the applicant's representatives for engaging adjacent property owners and seeking solutions to screening issues. Should these property owners voice support for the variances, Staff does not have any opposition to their implementation.

MR. WHEELER: Are there any questions of Staff? Mr. Lee?

MR. LEE: Mr. Zenner, the last time this came before this body, was it Staff's recommendation for denial then?

MR. ZENNER: It was a recommendation of denial at that point as well.

MR. LEE: Okay. Thank you.

MR. ZENNER: One other thing that I forgot to add, and I apologize. I'm filling in -- I'm pinch hitting for Mr. Lepke whose case this was. Included within this plan was a request for a fence on the east side of Rock Quarry road. That request cannot be handled within this particular project. That is a Board of Adjustment variance request to deal with the Rock Quarry Road overlay provisions. The applicant has been informed of that; however we want to make sure that it is clear that the landscape waiver for a fence along Brittany, which is directly to the east of this particular project site where we have some manufactured homes, cannot be approved as part of this. It is an off-site improvement. Again, even though we just handled one this evening on the Wendling property, that is required to comply with a different set of zoning standards. It's not owned by the applicant that is seeking to have this property rezoned, therefore it must go through a separate defined process, and that is the

Board of Adjustment. Just to provide that as clarification, even though it was included on the site plan that you see here before you tonight.

MR. WHEELER: Are there any other questions of Staff? All right. We're going to open the public hearing. Before we do, I want to -- this is the one item this evening that the Commission agreed the last time we were together that we would give a little additional time. Hopefully, no more than two minutes -- actually, no more than two minutes. So primary speaker's going to get eight minutes. I will be watching, so please let's -- everybody's been here a long time. So we'll open the public hearing.

PUBLIC HEARING OPENED

MS. LAMAR: Good evening. I'm Phebe LaMar and I have offices at 111 South Ninth Street. I'm here this evening on behalf of MFA Oil. As you know, my client is seeking to put a convenience store, which is the modern version of the neighborhood market, at the southwest corner of Grindstone Parkway and Rock Quarry Road. Ultimately, this decision comes down to what is an appropriate use for the corner of a major intersection here in Columbia. Last time we were in front of you about this project, I presented you with a lot of information. Rather than repeating most of that information, I'm asking you to take note of the minutes from the meeting September 6, 2012. I have copies of those minutes that I'll be happy to pass out to you if that would be helpful. One of the reasons given by Staff for recommending denial of this project is that it's not in compliance with the Metro 2020 plan. A more detailed examination of that plan seemed to be in order. The Metro 2020 plan was adopted in February 2001, which may have been prior to the beginning even of construction and was certainly prior to the completion in 2003 of what is now Grindstone Parkway. One of the underlying premises acknowledged in the Metro 2020 plan is that transportation infrastructure provides the framework for the land use to districts within the community. Since February 2001, the amount of development in the area surrounding the site of this proposed Break Time has been immense. Properties that were farm land have since developed, with almost all that development being either commercial or high-density residential. There are exactly two tracts along the south side of Grindstone Parkway between State Farm Parkway and Rock Quarry Road that aren't zoned commercial, and the one closest to this property is the tract on which The Crossing is located. This is a very high-intensity use, which for all intents and purposes is commercial in nature, with over 3,000 people and all the corresponding vehicles associated with that traveling in and out on an average Sunday morning, along with some traffic at various other times of the week. At least on one occasion in 2012, that number was closer to 4,000 than 3-. Furthermore, the auditorium was expanded a few months ago to seat a total of 1,400 people in each of three services. Just for comparison purposes, Break Time would anticipate averaging about 1,500 transactions per day, which is only slightly more than the capacity for adults, not counting the number of kids and youth during one service at the church next door. The Metro 2020 plan suggests that the areas along Grindstone between Green Meadows Road and Rock Quarry Road should be a neighborhood district. The reality since 2001 however has been

that this area has become one of the main east-west thoroughfares through the city of Columbia, with four to five lanes of traffic throughout, and is not conducive to a neighborhood. As of 2009 the number of cars traveling along this area on Grindstone along the northern boundary of the property was almost 30,000 per day. Rather than being a neighborhood district at this point, this is an area where people seek to locate businesses, churches, et cetera, to gain high visibility and attract people to their properties. There is some single-family residential property located immediately behind this property and across Rock Quarry Road. Those single-family homes are sandwiched between Grindstone Parkway, The Crossing, and high-density student housing. From the rear corner of one neighboring property owner's yard, the current view is of a large parking lot and Grindstone Parkway. On the other end of the street, the view is of student housing and Grindstone Parkway. Clearly, with the addition and later expansion of The Crossing, the addition of several student apartment complexes, and before all of that the construction of Grindstone Parkway, this area has changed substantially in the last few years. There are or will be shortly a total of 6,123 bedrooms of high-intensity residential housing within a few minutes walk of this location. There are, in contrast, only about 603 bedrooms of single-family housing. It is also important to note that the vast majority of the people who now live in close proximity to this location are young and tend to be out and about during later hours, and since Rock Quarry Road is one of the routes by which people travel north to the University Hospital and/or to other locations at early hours, the early morning hours at this location are also important. Given these considerations, it's vital that this store be open 24 hours. Given all of the changes in the area surrounding the subject property, it is difficult to fairly compare this attempt to rezone this property to prior attempts by other parties. What we are proposing for your consideration this evening is that this growing area of the city gain a market for the purchase of a variety of items that will be substantially more convenient for the neighbors than having to drive to Walmart or HyVee or Gerbes. Jackie Maxwell from MFA will talk to you a little bit more about Break Time's neighborhood market concept, which is the pattern for this store. Ken Caspall will also address in additional detail for you why this location makes sense for this type of development. While this issue comes down to whether it makes sense for the citizens of Columbia as a whole for a store like this to be in this location, the concerns of the neighboring property owners should not be ignored and they have not been. We have attempted to not only ascertain what those concerns are, but also to find constructive methods of addressing them. We have addressed each of the substantive concerns raised by the neighbors, and Jay Gebhardt is going to address in more detail, in a few minutes, landscaping, traffic, and the specific changes on this plan as compared to the prior plan. Noise concerns are being addressed by limiting deliveries to only daytime hours, locating the HVAC at the back of the building instead of on the roof and inside a sound-ending fence, and working with the City to ensure that trash pickup occurs during daytime hours, which should be inline with what is already occurring since, at least sometimes, there is a trash truck already serving the church's property crossing this property at 8:15 in the morning. The property owners across Rock Quarry Road

requested that we construct a fence on their property. In the event that this plan passes, we have made a vow that we will work with them, if they still so desire, to apply for a variance in order to do so. With the new lighting Break Time has started installing, which you heard about earlier this evening, there is little to no light projecting out toward any neighboring property from the canopy. And after receiving questions about ambient lighting from the front of the building, we actually removed from the plan a couple of light poles that were in front of the building. As I believe you will see this evening, the plan-based concerns that have been raised by neighboring property owners and City Staff have been addressed sufficiently with the plan in front of you. As such, the question before you is simply whether it is appropriate for this property to be used in this manner. Given the character of the surrounding area and the location of this property on a very busy intersection, I urge you to find that, in fact, it is. I told you I shortened it.

MR. WHEELER: Yeah. I'd say you did. You were almost under six minutes.

MS. LAMAR: I'd be happy to answer any questions.

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

MS. LAMAR: Thank you.

MR. WHEELER: Next speaker. Bet you can't talk that fast.

MR. GEBHARDT: No, I cannot. I wouldn't want to. My name's Jay Gebhardt; I'm a civil engineer with A Civil Group here in Columbia. Basically, I want to talk to you about this plan that has changed since September when it was approved by this body. Basically, we have -- at the advice or urging of the police department, we extended a fence from the back corner that will connect to the fence along our back so that it would restrict access to the back of the building. We have no doors back there, as we said in the last meeting. There is a camera that has a motion light on it, and that's the only light back there. So they asked for that, the police department did, so we're providing that. I want to remind you of the traffic improvements; they haven't changed from last time. MoDOT and the city traffic engineer still have approved these. And it's a lengthening of the right turn decel lane on Grindstone Parkway from our driveway, our right-in and right-out, and in addition of a left-turn bay on Rock Quarry onto Grindstone Parkway. And then, the pedestrian heads would be completed at that intersection to allow full pedestrian access through that intersection. Stormwater is going to comply with the City of Columbia's new stormwater ordinance. I can honestly say that the impact from stormwater won't be any different than it is today from the field. As far as the variances are concerned, we are asking for this variance because the neighbors have asked us to do this. We don't have -- I don't want to say we don't care, but we don't -- it doesn't matter to us which side of the landscaping the fence is on. So if the neighbors have desire to have the fence along their property line and the landscaping on ours, that's fine with us, and that's the variance that we requested. If you guys find that the variance isn't suitable and you flip that, you'll upset the neighbors, but you won't upset us. Also, I want to talk again about the screening to begin with. The code requires screening of 80 percent opacity between one foot and eight foot, and you can do that with landscaping or you

do it with a fence with landscaping that breaks up the fence. We've done, again, a belt and suspenders type of plan here. We did the landscaping that we could use without the fence and then we put a fence on it too. And so we've kind of doubled up what we're doing. I'll wrap it up. Any questions?

MR. WHEELER: You're still 30 seconds out.

MR. GEBHARDT: That's basically it. If you guys have any questions, I'll be glad to answer them.

MR. WHEELER: Any questions of this speaker? Mr. Strodtman?

MR. STRODTMAN: Can you explain to me the fence part where the police recommendation was? Can you -- or is there a picture that we can --

MR. GEBHARDT: I don't have a picture, but if you look at the drawing on the site plan, from the corner here down to the fence, and from here down to the fence. They just want a little bit of fence there with a gate that would restrict access to the back.

MR. STRODTMAN: Got you.

MR. GEBHARDT: Just to keep people from going back there and doing things they're not supposed to do, I guess.

MR. STRODTMAN: And then there was reference earlier about some lights have been removed off the front of the building.

MR. GEBHARDT: Yeah. There was some light poles out in the front here and they've been relocated on the site because there was some question about having -- just lighting up the front of that building so much.

MR. STRODTMAN: The overall number of lights is still the same, just been relocated?

MR. GEBHARDT: (Nodded head.)

MR. STRODTMAN: Thank you.

MR. GEBHARDT: And, again, the canopy lights are LED and all the things that were -- we had last time, we still have.

MR. WHEELER: Any additional questions of this speaker? Thank you. Next speaker, please.

MR. CASPALL: Good evening. I'm Ken Caspall, office at One Ray Young Drive, representing the management of Break Time MFA Oil, particularly MFA Oil Company. Just a reminder, I want to talk about why this is an excellent location for our neighborhood market with gasoline. But I'd like to remind you that we work hard to be a good corporate citizen. We've been officed in this community since 1934. We do provide many jobs, as a matter of fact, over 300 in the city of Columbia. We work hard to be a good corporate citizen in the way we support and provide benevolence. Last year we provided over \$230,000 to nonprofits, caregivers, and public education. Our MFA Scholarship Foundation provides over \$600,000 of college scholarship money and much of that money is spent here through the University of Missouri. And several of these scholarships are provided to the local schools here in town. MFA Oil's foundation funds over \$130,000 worth of small town -- some of --

we're including Columbia in this situation, but in those market areas that we serve with improvements, fixed assets, that kind of thing. For these smaller communities particularly, that's very important to them. Grindstone Parkway and Rock Quarry Road, that southwest corner, is definitely the best place for the Break Time neighborhood market store on all that -- on all that road. The Grindstone east of Providence Road, you've got two existing stores there on the north side of that -- of Grindstone: The Petro-Mart out on the east end of the Grindstone and then, of course, the HyVee at the HyVee parking lot, both on the north side of the highway. This location will serve the southbound traffic -- I'm sorry -- the eastbound traffic very, very well with right-in, right-out. The stoplight, with the added turn lanes will provide safe westbound access. Rock Quarry Road is the best access to the University of Missouri, and therefore it's the one location that provides us north-south access as well as east-west access, and plus the fact that there's 30,000 cars during that -- more than that running through that intersection every day, so it's a very good location. But I would like to just say this: Before we resubmitted this rezoning application, we looked at the southwest corner of that Red Oak development with the full access where the intersection is, but we were told that there's trees there that cannot be disturbed. That makes it an inappropriate location for us to locate a store like ours at that particular location. So we did try something else that didn't work.

MR. WHEELER: Thank you. Are there any questions of this speaker? Thank you, Mr. Caspall. Next speaker, please.

MS. MAXWELL: Hi. My name is Jackie Maxwell, and my office is at One Ray Young Drive, here in Columbia. I'm a vice president with MFA Oil Company, and I'm in charge of the Break Time convenience stores division for MFA Oil. I've worked at MFA Oil for 32 years, and MFA's been in the convenience store business for 28 years, so I've been involved in that division since MFA Oil started. I'm not going to be repetitive again and repeat some of the things we talked about the last time, but there are a couple of things I would like to point out. When we presented previously, we were talking a little bit about our neighborhood market, and when Jennifer Bach comes up, she's actually going to show you and talk more about what we've included and what does that really mean, what's in a neighborhood market. So I won't go into that. But I would just like to say that part of our goal with that program is that, you know, if there's needs that we want to fill with, you know, expansion of grocery items and so we're starting with the concept that we definitely are expecting to expand over time to meet the needs of the people that live in that area. And then I would also like to add to the discussion that's taken place on lighting so far, and the only thing additional that I'd like to add to that is that -- we don't have this concept in our hands yet, but we're also looking at a dimmer that goes on that LED lighting that allows us -- for instance, on a cloudy day when everybody's turning on your canopy lights because it is cloudy, there's no choice typically. It's either on or off. So this dimmer allows us to back off a little bit of the lighting on a cloudy day, that you don't need them all on like that. So the LED already uses a tenth of normal lighting, in terms of energy consumption, and the dimmer will pull that back a little more. The hours of operation have already been discussed previously, and I

will tell you we do feel strongly about that, and there's reasons for it. It is modern-day lifestyles that are asking us to do that. There's -- you know, between the medical presence in Columbia and just the lifestyles people lead today, we feel like that's important for our type of business today, so we feel strongly about that. I will say in the recent bad weather that we all experienced, you know, our stores, we provided -- that day we provided free coffee for all the city road, utility, maintenance workers, law enforcement, and emergency services, and we did that across the state of Missouri. We called it our snow day. You know, that's the sort of thing we want to continue doing that. We've also recently started a new program where folks can save money on gasoline through a new proprietary debit card program we have. We expect to make -- break even on that program. So I think that what I'm -- the point there is that we're trying to be a good neighbor and we look for ways to add value and give things back to folks that are doing business and in the community with us. Is that my out-of-time light?

MR. WHEELER: No. That was your 30-second light.

MS. MAXWELL: Okay. And then, I think, as Ken Caspall pointed out, I think that we see that corner as -- you know, it's a significant opportunity to serve the student housing community that's going to be there, and many of those folks don't own a -- may not own a vehicle and would be on foot or on a bike. So I think that we see that as an opportunity to serve that group too.

MR. WHEELER: Are you wrapped up?

MS. MAXWELL: All right. That's it. Thank you.

MR. WHEELER: Thank you. Are there questions of this speaker? Thank you, ma'am.

MS. MAXWELL: Thank you.

MR. WHEELER: Next speaker, please.

MS. BACH: I'm Jennifer Back, director of marketing and merchandising for the Break Time stores, offices at One Ray Young Drive. As you've previously heard, we're putting in the neighborhood market concept at this location. And when we were here a few months ago, we kind of described what that market would look like. Since then, we've put in one of these at downtown Columbia on Tenth and Elm, so we have a few pictures just to kind of show you what the inside of that store's going to look like at Grindstone. On our beverage and beer, on our cooler section, we've put in LED cooler lights to conserve on energy and to make the product brighter and easier for consumers to find what they're looking for. We've put in an expanded coffee selection. You're able to get a cup of coffee that's as good as any coffeehouse that you'll go to at a fraction of the price, and you can select from traditional blends such as -- you can select from our traditional house blends, as well as some origins like Columbian, Kona, Viennese. And then, we'll sure that whatever condiment you're looking for in your coffee, we have that there for you, including whip topping and any kind of creamer or sugar that you're looking for to add to that. We've also expanded our dairy section to include staples like milk, bread, eggs, cheese, and lunchmeat, and it's easy to get in and get out without going to the grocery store for those items. We also have our deli selection where we have

fresh fruit available for a healthy snack as well as our deli sandwiches that we make locally in our commissary, and these sandwiches are made with highest quality meats, cheeses, and breads. We've also expanded our traditional roller grill and offering a variety of products including our hot dogs, which you're able at this location to add additional condiments to your hot dogs like jalapenos, chopped onions, and banana peppers as well as chili and nacho cheese. We're also putting in our fillers product, and that's made with Freschetta pizza dough and they're filled with pepperoni and mozzarella or ham and cheese, and these are great grab-and-go for lunch or good afternoon snack. We've put in a 20-head fountain machine, which is larger than any of our other stores, so you're able to find what products you're looking for in the fountain there. We've also added a F'Real machine, which includes real fruit smoothies and milkshakes; probably one of the best milkshakes that you'll get on the south side of town. We've also increased our freezer section to include some frozen foods so grab-and-go pizzas, individual frozen dinners, and then take home products in the ice cream case. We've also increased our grocery selection to include items such as pastas, mac and cheese, bread, canned fruits and vegetables, sugar, and flour. And then we've put in fresh fruit tea brew -- a fresh fruit -- sorry -- fresh brewed ice tea as well as a bank of frozen slushies. So that's just some of what we've put in that store that's different than a normal Break Time store.

MR. WHEELER: Are there any questions of this speaker? Thank you.

MR. STRODTMAN: I've got a question.

MR. WHEELER: Sorry.

MR. STRODTMAN: Just for comparison to our presentation earlier this evening, what kind of percentage of gas do you sell at a typical Break Time, maybe not a neighborhood since you don't have a comparison for that?

MS. MAXWELL: So when you're looking at --

MR. WHEELER: Ma'am --

MS. MAXWELL: I'm sorry. Jackie Maxwell, One Ray Young Drive, here in Columbia. Just because of the price of fuel and this location is -- it will do a lot of gas volume, the inside sales probably to total sales is probably 20 percent, so it's probably 80 percent fuel. And it's just there's a lot of dollars that go through fuel, but this will have nice inside sales as well.

MR. STRODTMAN: How is the alcohol handled in this store, like just compared to your traditional store?

MS. BACH: We'll have a beer cave in this store, so there will be a larger selection of beer and we have put in some larger bottles of liquor. But sales are going to be a little bit higher, but you're still in that, like, 20 percent of your total inside sales.

MR. STRODTMAN: Thank you.

MR. WHEELER: Thank you. Other questions of these speakers? Thank you. Next speaker, please.

MS. PRITCHARD: Good evening. My name is Jan Pritchard; I live at 3505 Rock Quarry Road, which is just south of the cul-de-sac that's just south of the proposed site. And I wanted to -- first of all, I want to make a point: This is exactly the same kind of project by project rezoning that Councilwoman Nauser so vehemently opposed during her campaign. She said she doesn't like project by project rezoning that doesn't take into consideration the neighborhood concerns and does not take into consideration the already -- the city planning that's already in place for the neighborhood. All right. We have both of those in this case. This is not a commercial lot that we're putting a gas station convenience store on like Macadoodles. This is not already zoned O-P. This is essentially a large residential lot that is currently zoned agricultural. It is sited to face Rock Quarry Road. The main access to this lot is the driveway off of Rock Quarry Road. What this lot is, is part of a residential neighborhood. It's directly adjacent to residential neighborhoods. And I don't know how many beds are in those fifty houses, but there are fifty if you count all the owner-occupied, mobile homes, plus the site built homes that are probably within a quarter mile. There are 50 single family homes. That's not an insignificant number, and most of those are owner-occupied homes and they've been there for decades. Yes, there is a lot of student housing, and that's just been built recently. But, in fact, there is no commercial use on the south side of Grindstone between -- well, between where AC first came in and AC first left out. In other words, when Grindstone Parkway was put in, the intention was to keep the commercial at either end of the road, and it currently is. So this stretch of Grindstone Parkway has -- is -- is residential and continues to be residential, has always been residential. Anyway, I want to -- one of my concerns is that the access on this lot is not conducive to a gas station. Your access is a driveway off of Rock Quarry Road and that's limited -- the size of that driveway is limited by the scenic road overlay. I'm not sure what the width is, but it's a limited width. And then the other access is a right-in/right-out on a divided highway with a barrier. So how -- where are these fuel trucks going to be coming in to service this property? Where are the commercial vehicles that have to bring goods and services to this property -- how are they going to get in and out. You know, they either have to somehow or another maneuver so they're coming -- going east on Grindstone Parkway to get in and out -- and I would propose that it's still going to be a difficult maneuver for a fuel truck to go that way -- or they're going to have to come down Rock Quarry Road, which is a residential collector street, to get into the driveway off of Rock Quarry Road. Okay. The other problem is -- and you brought it up with alcohol. Do you know how many underage drinkers live -- you know, all those thousands of beds, most of those students are not legal. If you think we have a lot of police down there now, just wait until you put a 24-hour store that sells liquor down there. You're going to have all of those kids walking over. Somebody 21's going to buy that liquor, but guess who's going to be drinking it. All right. The -- one thing I want to mention is, you know, I've been sitting here tonight, you've talked about hours of operation. Here we have a gas station that wants to operate 24 hours, and compared to everything else that we talked about -- you're so concerned about hours of operations with an office and hours of operation with a gas station and

convenience store that has a buffer area before you get to any buildings. What about hours of operation for a convenience store that backs up onto people's houses? That is a problem. That's a real problem. Why are you not questioning that? You know, this just doesn't make any sense. MFA has told you all the good reasons why they want a gas station there, but they haven't -- you know, they don't take into consideration the fact that people live there, you know. What about our property rights? What about our quality of living? You know, there's a reason that that's a scenic road. There's a reason that Grindstone is supposed to be a parkway, and that is because that part of Grindstone has traditionally been residential. There's a reason that the Staff -- okay. And these are my issues. But I want to point you -- don't listen to -- you know, MFA has their side, the neighbors have their side, but you have the advantage of having a third party with no interest who has analyzed this proposal, who has analyzed the traffic, who has analyzed the neighborhood, who is -- who has seen how this area has developed, and they have recommended -- you know, they don't have -- they don't have a dog in this fight. They're the only objective person you have, and the Staff has recommended that this be denied. Now, I would like to propose to you that this is a project by project -- you know, a spot project rezoning, if you will. It's not conducive to the neighborhood. The neighborhood does have an interest in maintaining the integrity of our neighborhood and maintaining the value of our homes and maintaining the scenic road ordinance, all the things we've fought about. There are two churches here. You know, it's just -- you know, there are parks, there are churches, there is housing. And, you know, there is -- there is a definite -- the neighbors have rights here too, you know. And there's also already a city plan for this neighborhood and the city plan is that this is not a conducive use. The city plan is this should be O-P zoning or there should be, you know, residential use like the rest of the surrounding neighborhood. So I suggest that if you would approve this plan, you would be doing exactly the thing that Councilman Nauser was saying should not be done, and that is doing a project by project rezoning in an area that that's not appropriate. So anyway, I -- you have my other comments that are in -- you know, in the packet. Any questions?

MR. WHEELER: Are there any questions of this speaker? Thank you, ma'am.

MR. PRITCHARD: Hi. My name is Dan Pritchard; I live at 3505 Rock Quarry Road. And I've appeared before you before on the last one where you approved it. I'd hope you would reconsider that approval, obviously, or else I wouldn't be speaking from this point of view. I agree with the Staff's recommendation on it. The fact of the matter is I have a bit of a problem with their idea of this is a neighborhood market. That's one of my problems, because they refer to it as a convenience store, neighborhood market is the same thing. Now, maybe I'm just too old, but a neighborhood market didn't have 80 percent of their dollars from gasoline. Most of the neighborhood markets I knew, you walked to, but you didn't buy gasoline. If you did, maybe they had one pump, but they mainly were there for the in-store purchases, not the gasoline. The other thing I want to mention is that with the traffic patterns -- the only reason why this is even arguably a good site on the south side is because of that one right-in/right-out access off of Grindstone. Because if you take into it -- you could

make -- under their argument, if this is a major corridor -- Bearfield's starting to be a major corridor too to get to it. Students go there. There's a lot of students. You could just go ahead and rezone one of those residential ones on the corner of Bearfield on the south side ones, you know, just raze that and put in a convenience store or neighborhood market, whatever you want to call it. In fact, you may get more people to walk up there than here because at least they have sidewalks that go there. Number two, you have 30,000 cars, according to them, that go through this lane as a major north-south corridor. Now, honestly, I don't think any of those students are going to be walking to this place unless they're really, really close. I mean, they're not going to do it from the north side. They're not going to do it from east or west. They might do it from The Point, and I'll go ahead and tell you that The Point, they ride their buses probably because they can't get parking at the University. At least -- even when I went to the University, the parking was way out -- I used to park out at the livestock pavilion and walk in, and in February it was a tough go. Also, while I don't think it's an appropriate use for the go to -- for a convenience store to go there, I do agree with Staff that should you decide to rezone it, that the development plan should have a limit on the operation of hours. Now, I've been encouraged by your discussion of operation of hours on the previous two cases, you know, and the distance. This is actually closer. You would think that you would be concerned also with the operation of hours even more with this. Now, I have a problem thinking of the church as a major commercial activity, but I will say this: If it is, I suggest you restrict their working hours to the hours of the church. I would be perfectly happy with that and I wouldn't worry about it. Thank you.

MR. WHEELER: Thank you. Are there any questions of this speaker? Thank you, sir. Next speaker, please.

MS. YOUMANS: Good evening. My name's Julie Youmans. I live at 2101 Rock Quarry Road, which is north of the intersection so I'm not directly impacted by such things as whether the lights come in my window, but I feel that I am impacted. I should apologize in advance because I am going to repeat what some of the other neighbors have said. I am not in favor of this project. I do take issue with the simple statement that this is an obvious choice because this is a major intersection. It is, as you've heard, much more than a major intersection. It's the crossing of a major highly used, high speed traffic corridor and a scenic road. The scenic road ordinance was established for a reason. This area that winds its way through town, Rock Quarry Road, has unique geologic and historical features. It's something that makes Columbia a great place to live. The statements that I've heard tonight and at meetings, Well, this is just going to get developed anyway; what did you expect. Well, when we moved in years and years ago to Rock Quarry Road, we expected some respect paid to the scenic ordinance, that that would not preserve it untouched, but let it develop in a way with integrity, that still could use its positive features as a scenic road for Columbia. And what's happening as we watch as these zoning cases come up here and before City Council, piece by piece dismantling the scenic road ordinance, that as you put these high traffic sites in that demand for their needs, that you disregard the scenic ordinance. You need to make the driveways wide enough,

provide clearance for turning, and the scenic road ordinance is piece by piece torn apart. As I said, I don't live next to the site, but being on Rock Quarry Road is an important feature for me. I do use the -- both the Grindstone gas stations that are near each direction. At that intersection, there is another gas station the very next intersection north there is a gas station. I can use that. I can turn to the east and there's a Break Time I can use. So there's no shortage of gas stations in this immediate area, no shortage of food stores and specialty food stores. And, again, to repeat, it's not a friendly homey market to go to a gas station. The notion that that's a market -- it's a store. I'm happy to use them when I do, but it doesn't provide that neighborhood integrity, a sense of commons, a sense of community. It's a gas station. Thank you.

MR. WHEELER: Thank you. Are there questions of this speaker? Thank you, ma'am. Next speaker please.

MR. HAAS: My name is Craig Haas; I live at 3609 Southland Drive. I missed their presentation; I had a nine o'clock appointment. But I'm sure it was still the same as last time. The thing of it is -- the previous speaker talked about living on the north side. Their canopies are all lit up with red neon lights and when you come south, that's going to -- you'll see it like a beacon. The previous applicant that you guys passed, I wish they were there. They're going to shut down at eleven o'clock in weekends. The Crossings church, their lights, they're gone at eleven o'clock. The pre-- and previously the lawyer told one of the largest churches in Columbia on the right-out/right-in, if you don't like it, buy a gate. Well, I guess they'll either buy a gate or hire two more security guards to police the area. You know, the access sucks. Yeah. It will be developed. They're already asking for variances for the scenic overlay for fences and that. Yeah. It will be developed, but across the street it's been passed for three years now. There's going to be some office buildings there. On the west side of the Crossings, Red Oak, you guys were really upset. They got a list a mile long, no gas station, no this. So they took their option. Where's the money? Student housing. You had no say. It was already previously zoned. They done it. And I don't know if this is a bearing, the -- the Macadoodles, they own that property. They're going to lease it (indicating). So end of the 15 years, if the market goes dry, they're gone. You're going to have a vacant gas station there, you know. Yeah. The LED lighting is good, but drive by -- you talked about going home. Go by their new canopy down there on Nifong. The light bleeds out. They're going to have eight gas pumps. I don't know what Macadoodles was going to have, but, you know, they're going to be stretched out and -- I don't know. But on the main -- just the bearing, whether it's called a market, gas station, you're rezoning from R-1 to commercial. And, you know, if -- if you approve it, they're going to go to City Council, and depending on the election -- if Karl gets in there, they may not even bring it in to a vote. Who knows? So that's, you know, my -- my beef. And, yeah, they do a good job. They donate a lot of money, but we're not here to praise them on their donations. We're here for this project and it does not meet the qualifications that you guys have set forth, and go on that bearing. Thank you.

MR. WHEELER: Are there questions of this speaker? Thank you. Next speaker, please. Next speaker, please.

MS. WILSON: Good evening, and thank you for your patience this evening. My name is Vicky Riback-Wilson; I live at 3201 Blackberry Lane, which is about a quarter of a mile north from the intersection of the proposed property. You've heard all of the arguments. You know what the concerns are. I simply want to make a plea for our life in Columbia. We're lucky to have good corporate citizens like MFA, but we're also fortunate to have the kind of community that is particularly known and praised for citizen involvement. One of my concerns has been, through this process, that those of us and many others who've been involved over the years and working on the special area plan, working on the scenic road ordinance, working on Metro 2020, working on the visioning, whatever it is that says, We want special neighborhoods in Columbia; we want to maintain that feel. We want scenic areas in Columbia so that our community will have a higher quality of life. All the characteristics that we have worked for as active citizen participants are threatened by the kind of commercialization that we see going on. Yes, we want Columbia to grow. But when that growth flies in the face of citizen participation and decisions that have been made in the past, and when that kind of decision-making for growth that seems haphazard allows us to sacrifice the neighborhood feel that we value and allow for growth that doesn't seem to be -- supportive growth that doesn't seem to be well planned or well organized or well thought out, then in the end we all lose. In talking about the scenic road and the neighborhood, one of the proposals was -- I was looking back through my notes tonight. One of the proposals was that there shouldn't be any signs larger than 16 square feet. Well, we're talking about 64-square-foot sign now. And no matter how much vegetation you have, a 24/7 gas station does not a scenic road make. I compliment people on trying to make something that compliments the neighborhood, but when the neighborhood threatens to be overrun by short-time residents and commercial establishments without a balance for the long-time neighborhood residents, then I think we've lost sight of what Columbia is all about. And I would ask you to reconsider your previous vote and deny this proposal. Thank you for your time.

MR. WHEELER: Thank you. Are there questions of this speaker? Thanks. Next speaker, please. Any additional speakers? Okay.

MR. ALBERT: Eric Albert, 803 Ann Street. Please start your timer. When you come from the University and you come south, you come into this intersection. It's a great place for a gas station. It'll service the University. When you go east to 63, you want to go into that gas station, you can pull in there, but when you come out, you've got to go to the next -- next entrance on Grindstone back to the west. When you go to HyVee, you go through three intersections, you walk down the hill, up the hill, past Walmart to get gas -- or to get whatever your convenience stuff is. We have a lot of students that walk and take bus to the University. They will use this. There's a lot of people in the neighborhood who will use this. This is going to hire anywhere from 11 to 15 people. We're looking at -- we're looking at millions of dollars worth of revenue that the City would get. There's only four

houses to the -- four or maybe five -- to the south side of this property. All the rest of these homes they're talking about are up to two miles away. If you count 50 houses, you're along ways away from the property. There's four or five abutting residential properties to this. This was a commercial property in the get-go. It was an ice plant and a butcher shop originally, before zoning was ever here in the county. The whole Grindstone roadway was built to be a commercial road, and avenue, to connect an arterial feeder road. We need this gas station, so I would ask you to approve this gas station.

MR. WHEELER: You wrapped up?

MR. ALBERT: And I've also talked to other people in the neighborhood who are for it. There's probably 6,000 people in the immediate area who are not here tonight, who weren't notified, and really they don't participate very much. They are a little transient, but they still shop and still pay taxes and they're still voters. They just haven't shown up. These folks are nice folks, be them liberal or conservative. I think it's a vendetta. MFA's done everything they can possibly do. What more can they do? This is a commercial corner, absolutely a commercial corner. And I -- I can't believe that the City would say right off the get-go that they're not for this project. This absolutely meets the mark. Columbia is not friendly towards business. If you -- if you vote against this, you are voting against good, old-fashioned, capitalist business. There's nothing wrong with a gas station on this corner. Good day. Thank you.

MR. WHEELER: Are there any questions of this speaker? Thank you. Appreciate it. Next speaker, please. All right.

PUBLIC HEARING CLOSED

MR. WHEELER: Seeing none, I've been asked that we take a short break because I think everybody's been sitting here long enough. So we're going to take five or seven, whatever it takes, and then we'll come back.

(Off the record.)

MR. WHEELER: All right. We're going to call our meeting back to order. We don't have any Staff, but that's all right. I think we were at Commissioners. We are ready for discussion. So who wants to lead off now that we're all ready to go? Mr. Skala, thank you.

MR. SKALA: Let me try. First of all, I think it is appropriate to thank MFA for being a good corporate citizen, with their philanthropy and their foundation and so on and so forth. It's very much appreciated, so thank you. But our job here is not really about your philanthropy; it's about land-use decisions. And as far as I can tell, my position in opposing this the last time has not really changed much, neither has the proposal. I think I commented last time about incremental density, particularly commercial incremental density on a limited -- well, what was supposed to be, initially, a limited-access roadway which has turned into a high traffic trafficway. But nonetheless, the idea was to get traffic from one side at 63 to the other side towards Providence in as expeditious a manner as possible, and that's why it was a boulevard, and it was supposed to be limited access. But you could

see relatively quickly when some of the Red Oak development went in and some of the signalization went in associated with that, that there was going to be some diminished capacity for that roadway to carry the kind of traffic we were really interested in. So that was one issue. The other issue that was discussed at the last Planning and Zoning meeting when we took this up had to do with plans and it had to do with lots of plans. There was the visioning plan, the Metro 2020 plan, the Rock Quarry special area plan, the scenic roadway plan. All of those in various ways have impacted this proposal and our decision. And frankly, there has been some discussion recently even amongst the City Council with regard to planning and that some plans are put on the shelf and they're not paid much attention to, and maybe we ought to do something about that. I think this Commission is preparing to do something about that by -- by helping to get some of the past vision and visioning, and some of these other plans, incorporated into the comprehensive plan, which is going to be our task shortly. At any rate, for those reasons -- I'm not going to belabor these points. I think at our last meeting -- my arguments have not changed very much with regard to those particular issues. I will certainly direct the City Council, if they are interested, to take a look at the September 6, 2012 minutes from that last meeting. I don't see that the plans have changed significantly nor have my objections to them changed significantly. And for all of those reasons, I intend to vote no.

MR. WHEELER: Who's next? Ms. Peters?

MS. PETERS: I also have not changed my opinion since this came before us last. I would like to thank Break Time for being good corporate citizens. However citizens are made up of the community and neighborhoods. And I believe that citizen participation is vitally important to how we progress as a city. I've read a number of plans through my years on the Commission and one of them was from, I believe, 1925, which was one of the original city plans. And even in that plan, Rock Quarry Road was deemed by the citizens to be a scenic roadway and that was their intent was that this would remain a scenic roadway. I do not think that this is an appropriate use for this corner. I think it degrades the neighborhood, and I am supporting Staff and Staff's recommendation for denial on this.

MR. WHEELER: Mr. Vander Tuig?

MR. VANDER TUIG: I also voted no last time around for reasons mentioned already, the access management, which is critical here. You know, with Red Oak, that's a different story. I actually voted yes on that and it was because there is access management with the signal there. This is very different. And I also mentioned plans last time as well. I'd like to just talk about the past cases we've heard this evening and the fact that this one is very different with respect to the proximity to homes and the hours of operation. And I think we've set somewhat of a precedent tonight with regard to that. And to vote for this rezoning and this plan would go directly against anything that we've stated thus far tonight. And so my vote is still no, but probably even more so for the reasons that I just stated.

MR. WHEELER: Mr. Lee?

MR. LEE: Well, I'm going to take the opposing view to my fellow Commissioners who have already spoken. I have to ask myself what I think is the best -- highest and best use of the land. And I believe that this market is the best use of this land, especially given the fact that the amount of volume of traffic on that road and the fact that there are so many apartments so close to this particular site. There's a group of apartments south of this site, there's more apartments going in on the other side of the church, the ones across the street there. And the fact that there is no convenience gas store on the south side makes it difficult for those apartments on the south side to get to something on the north side. And I just believe that this is a good use of this land, and MFA has been very cooperative with the neighbors to try to make it as palatable as possible to them, so I intend to support it.

MR. WHEELER: Mr. Tillotson?

MR. TILLOTSON: This is a tough one. It was tough the last time it came in. What I have seen tonight is the opposition has reduced its ranks quite a bit. It seems like the developers have worked hard with the neighborhood to try to answer their concerns, and most of the people that are here opposing it are people that live quite -- quite a bit further away. Then I sit here and think, if the owner of that property was to walk in and give it to anyone of you today, would you build your home on it? Would you build a residential home on that lot? No, you wouldn't. So when people say this is a residential lot, it's not. There was one time a bank going go to there, and I believe that was opposed venomously. So what are we going to put there? What's being proposed is a very good use of the lot, but is it the most favorite thing we'd like to see? I don't know, because I don't know what else would go there that would serve its purpose. The scenic route that everybody talks about, really if you -- it starts from Grindstone north, in my opinion. That's where the scenic route is. What's behind that is nothing but homes, there's some trailers, there's a church. So let's not try to use that as an excuse to bring things in here to fight. It's like we're grasping for straws. I'm real proud of a Locally-owned company doing what it's done in Columbia. It continues to do a good job. Their type of business is different than the businesses we talked about earlier. It is a business that requires 24/7, and it's a good spot for it. I think back the day we had the big snowstorm, I think it was a Thursday, and people were let off work and everybody was trapped out on -- I don't know how many of you got trapped out in it. I did for three hours. And I watched hundreds and hundreds of students, not by choice, but they were out and they were playing in the snow and they were pushing people out. Students will go -- they will get on foot and they will hoof it from all those complexes there. The people from the church will use it quite regularly. I will use it. I travel that road two or three times a day. I was in favor of it then and I continue to be in favor of it. I commend MFA; they've worked with the neighborhood. They've got -- the really close neighbors that really have a real concern, they've got them on board with it, and have worked hard with them, and I commend you for it. And I do intend to support it.

MR. WHEELER: There's only three of you left. Mr. Reichlin?

MR. REICHLIN: Sure. Yeah. The first thing I noticed was that there was less opposition this time around so that says something to the efforts of the developer. And my position hasn't changed; I intend to support it and would also support the variances.

MR. STRODTMAN: I'll go next.

MR. WHEELER: Mr. Strodman?

MR. STRODTMAN: I'm going to be a little different. I'm struggling with this one. I voted for it the first time, but I'm really having a hard time this time. And at first I thought -- I'll give a compliment to the citizens that are here. You know, I think part of it may be is that the developer, who has done a good job, has worked with the citizens. My guess is it's almost eleven o'clock and it's the second time around. We probably wore a few of them out. So I do thank you for the ones that did come again for coming. I guess my issue is a couple of things. I've got four or five notes here. You know, one of them is the planning. I was involved in the visioning process and some days I feel like it was a waste of my time. Other days I feel like I contributed something and that that will come to fruition down the road, hopefully with the comprehensive plan. So I'm really looking at the Metro 2020, you know, the scenic roadway, the Rock Quarry Road special area plan, kind of looking at those thinking that we should probably give it more credit than I'm giving it in the past. You know, the City Staff denial is a big one for me. I put a lot of faith in their expertise. They're professionals at this. I'm not. I'm just a volunteer citizen here, so I look to the City Staff as kind of an expert in the industry, if there is. The connectivity to the church still just kind of baffles me. I don't quite get how that component of it is going to work late at night or 3:00 a.m. I still struggle with that, that dark parking lot -- that, you know, couple of acres of dark parking lot concerns me, and if someone can get right into that parking lot easier from the convenience store, that concerns me. And then, just the transition to the neighborhood; you know, someone mentioned -- Matt maybe mentioned it earlier that we've kind of set ourselves with the other two examples earlier today about hours and transition to neighborhoods and dumpsters for noise and all that, and I guess I'm looking at this one as that we should be doing the same thing in this one. And as much as I hate to go against something I voted for earlier, I'm going to vote against it tonight.

MR. WHEELER: Dr. Puri?

DR. PURI: Last time I voted for this, and I intend to do so again. I mean, I think that corner is commercial. You're never going to put a house on that corner. I don't think it's feasible. So you have to look at, you know, what is going to, you know, flourish there. And, obviously, I mean, I think that MFA has done a great job at putting this concept together of the neighborhood market. I think it encompasses the things that student housing on the corner need, also residents, you know, could use. A residence is never going to be at that property. And everybody makes it sound like Rock Quarry is scenic roadway. I mean, that is -- it's been designated that, yet it still needs a lot of work. And as a Commission, you guys know we have been working on that, to draft that ordinance and trying to do that because there's -- if you drive down Rock Quarry Road right now, it's anything but

scenic, in my opinion. There's refrigerators out there, broken cars out there, and that all needs help. And that's another, you know, undertaking. But despite that they're putting up a nice building with very nicely landscaped front and sides. Yes, there's some limitations there to access. I agree with Mr. Vander Tuig on that. However, sometimes you -- I mean, you cannot have everything. You can't have your cake and eat it too. Under those circumstances, I think that the concept is good. This can never be residential. The corner has accessibility to do this. They're putting another lane in to handle the traffic to go right-in/right-out. There's not gas station on that side. I agree with one of the citizens that spoke up here that you have to turn around all the way at the other intersection to turn around and come down that way after you get gas on that side. There's nothing on south side of that, you know, intersection. So I think that it's ideal. I think that it's not an eyesore. I think they'll work to get the landscaping and the fence like the citizens surrounding the property wanted it. So I think they've done everything they can to make it as best as it can -- as low impact as it can be, so I intend to support this.

MR. WHEELER: All right. I think my position on this has not really changed, but let me start by saying I heard something interesting tonight that I just want to point out to City Council, and that is -- and I don't totally agree with this, but students don't walk. They actually have cars. They do walk at times, but they do have cars and so you ought to take that into consideration downtown. But I lived in Southridge. That was my first home in Columbia. I came out -- when it was two-lane road, went down to Rock Quarry, took a right. Drove Rock Quarry every day. Crazy, dangerous road, with all the students driving it, you know, no improvements. Can be pretty. Frankly, has been altered quite a bit. That changed significantly when AC was put in. That road is no longer the same. That intersection is no longer the same, never will be the same. And that was the decision of the State actually. It's a state route. And I wasn't here. I was on the Commission when Walmart was approved. You know, we -- I would have supported connecting up the Walmart parking lot to Rock Quarry, and I know the neighborhood probably fought that and that's the reason it didn't happen. But that would've been the appropriate planning, in my opinion. The four-lane intersection immediately to the west of here, this body voted against that. There were some people that supported it. And, obviously, the zoning's in place and we've approved some things there since, but we didn't support that four-lane -- or four-way intersection and I still don't think it's appropriate. I would still have voted against it. That said, I don't know what you do with this piece of property. It would've been nice if this had been developed with Sun Court, but it simply was not. Now you have -- you know, the issue of spot zoning has come up and I just want to -- and I'm going to ramble on a little bit here, but we are faced as a Commission and City Council is faced with islands of property that have to be zoned. We either can leave them as A-1 on a corner of a major intersection or we can rezone them. So for it to be said that we're doing spot zoning, jumping from here to there, I don't think that's fair to us. We are faced with these decisions. It would be nice if we could take huge blocks of land, 1,000 acres at a time, and plan it, but that's not typically the way it works for us. So, you know, the area's changed,

the roadway's changed, student housing has changed it a bunch. In 1925 they had no idea what was going to end up down here, you know, so -- and as far as the 80/20 on -- you know, we've talked about 80 percent gas, well it is, I'm sure, by volume 80 percent gas. But someone should ask MFA what they make on a gallon of gas. And MFA does better than most on a gallon of gas. And so they do 80 percent of their volume on gasoline, but I'll guarantee you that 80 percent of their profit does not come from gasoline. It comes from inside sales. Inside sales is where it's at with any of these. And so because of these things, I think we've gained some off-site improvements that we wouldn't get otherwise. I think, as Dr. Puri said, we've got a use here that although is not perfect, it is probably as good as we're going to get. I can't imagine what else we'd get here except for a strip mall or a little strip center, which I think you'd be opposed to as well. Is it perfect connecting it to the church access? No. But I sure like the stacking distance a lot better for that right-in. So I'm going to support it. I won't belabor it. I'm going to support it, somewhat reluctantly, but I'm going to support it. So somebody want to frame a motion?

DR. PURI: I'll take a stab at it.

MR. WHEELER: Dr. Puri? If I can, real quickly, I'm in favor of the variance request. Frankly, Staff's, you know, in a catch there. They have to oppose anything like this because it doesn't meet their rules, and I understand that. But if this is the way the abutting property owners want it, then I think it should be that way.

DR. PURI: I make a motion to accept a request by A Civil Group, on behalf of 8 Ball Commercial, for rezoning from A-1 to C-P, planned district; approval of a C-P development plan to be known as "Grindstone and Rock Quarry Break Time C-P Plan"; and grant the variances to the landscaping/screening requirements and alteration within the scenic roadway overlay vegetative buffer area. The 2.05-acre site is located at the southwest corner of Grindstone Parkway and Rock Quarry Road.

MS. PETERS: Clarification: Staff has recommended denial, but if the Commission is intent on approving it that there be a limit to the operation hours of the store and the fueling pumps. Do you wish to add that to your motion?

DR. PURI: No, I will not add that.

MR. WHEELER: Someone want to second Dr. Puri's --

MR. TILLOTSON: I'll second.

MR. WHEELER: Mr. Tillotson. Discussion on the motion?

MS. PETERS: I'd like to go. My reference to the plan in 1925 was to reference that as a city we continually have citizen participation and spend big money on plans, and apparently it means absolutely nothing. That was my point was at some point we need to start -- if we're going to spend money on plans and ask for citizens to be involved, we need to make considerable effort to actually follow the plan. I will not support this. I truly believe that Staff is spot on on this. As far as what would go on this corner, office has been recommended and it would be a good fit. I most definitely

would not support this without limiting the hours. And as a Commission, I think we look extremely foolish to require limited hours of operation on a similar gas station this evening and not on this one.

MR. WHEELER: Mr. Skala?

MR. SKALA: Yeah. Just one more comment, and that is the very thing that makes this a very attractive location -- business location, a commercial location, is the high-traffic volume. That's the same very thing that makes it problematic in terms of access and some of the other issues. And the arguments have been made by several of the Commissioners about this not being a suitable corner or location for residential, and I'd have to agree with that. But that was not the suggestion that was made by Staff, nor is that the only alternative that we have because it doesn't necessarily have to be just residential or just commercial. It can be some other -- some other entity that is consistent with at least the idea behind why some of these plans were constructed in the first place. I'm very worried. Even at this point we're not quite yet to the comprehensive plan, but without respect for some of the past plans that we have that apparently have languished -- I think we have to establish a new respect for the plans that we are about to adopt, and the only way to do that is to pay some attention to what the folks before us have suggested.

MR. WHEELER: Dr. Puri?

DR. PURI: I'd just like to clarify on this hours situation. I think that the previous example they had submitted their own hours of operation. So some of us that are -- in my case, I would speak for myself and other Commissioners can interject. Had those hours that had been proposed there been different, I didn't have any objection to those. They were proposed by the applicant and we accepted them as they proposed them, and that satisfied some of the other Commissioners. So it has been indicated that we would impose hours on one and not on the other. This business is requiring -- that's their mode of operation. So I am acceptant of that as I am acceptant of the previous applicant, so I want to point that out, that's not a selective acceptance. It's what the other applicant submitted and that was submitted. This applicant submits this for their business to work. Both are arterial roadways, they run 24/7, they don't stop. And Walmart is open 24/7 across the way. It doesn't shut down. So under those circumstances, I don't see any problem with this and I would not have seen a problem with the other one because it was an arterial roadway. So I just wanted to point that out.

MR. WHEELER: I'm glad you mentioned that actually because that was -- I felt like they submitted the hours and we accepted them.

DR. PURI: Exactly.

MR. WHEELER: And that was their choice, as far as the one. And I brought up hours on the O-P, but I felt it was appropriate. I don't -- Scott Boulevard to me is a different kind of roadway than AC. It may be four lanes, it may carry a lot of traffic, but it's mainly just carrying people to home. So this is -- you know, there's a lot of commercial services in the area and so I look at them as being very different. The public may not, but in my opinion it is, and I know there are people on the Commission

that disagree with me. So is there any other discussion on the motion? Okay. May we have a roll call, please?

MR. VANDER TUIG: A motion's been made and seconded for approval of Case 13-06 for approval of rezoning from A-1 to C-P and approval of a C-P development plan to be known as "Grindstone and Rock Quarry Break Time C-P Plan," along with the variances to the landscaping/screening requirements and the alteration with the scenic roadway overlay vegetative buffer area. Is that true?

DR. PURI: Yes.

MR. VANDER TUIG: Okay. That was the motion.

Roll Call Vote (Voting "yes" is to recommend approval.) Voting Yes: Mr. Lee, Dr. Puri, Mr. Reichlin, Mr. Tillotson, Mr. Wheeler. Voting No: Ms. Peters, Mr. Skala, Mr. Strodman, Mr. Vander Tuig, Motion carries 5-4.

MR. WHEELER: Recommendation for approval will be forwarded to City Council.