

**AGENDA REPORT
PLANNING AND ZONING COMMISSION MEETING
February 4, 2016**

SUMMARY

A request by Crockett Engineering Consultants (agent) on behalf of MFA Petroleum Company (owner) for a variance from Sections 25-48 and 24-35 of the City Code pertaining to sidewalk construction on property platted prior to 2001 and located along arterial or collector streets. The subject site is located at the southeast corner of Nifong Boulevard and Peachtree Drive, approximately 1,000 feet west of Providence Road, and addressed as 110 East Nifong Boulevard. **(Case #16-50)**

DISCUSSION

The applicant is requesting a variance from the requirement to construct a sidewalk along the property's approximately 275-foot Nifong Boulevard frontage. The applicant is required to construct sidewalks due to the expansion of the existing building on the site.

The first variance is from Section 25-48, which requires sidewalks on all property included on plats approved prior to 2001. The second variance is from Section 24-35 which requires sidewalks to be constructed on property located along arterial or collector streets which are zoned for a commercial, office or multifamily use. Nifong is considered a major arterial and the subject site is zoned C-3.

Because Nifong is currently an unimproved road (i.e., lacks curb and gutter), the request is evaluated based on standards included in Council Policy Resolution 48-06A, which provides specific guidance for determining the need for a sidewalk variance and whether the impact of the proposed development justifies the requirement that the sidewalk be constructed. It is important to note that the City's FY2016 Capital Improvement Program (CIP) includes a planned street project for this portion of Nifong that includes the construction of additional lanes and would include sidewalk construction.

The criteria below are used when evaluating whether to grant a variance from 25-48 based on Resolution 48-06A. Staff's evaluation is listed after each condition, followed by their determination if the condition is met (shown in CAPS and BOLD)

Variance from Section 25-48 (Subdivisions; Sidewalks generally (plats approved before January 1, 2001))

1. The cost of constructing the sidewalk relative to the cost of the proposed development;

Estimated construction costs provided by the applicant are 24% of the total cost of the exterior addition of the building that is triggering the requirement to construct sidewalks. **FACTOR NOT SUPPORTED**

2. Whether the terrain is such that sidewalks or walkways are physically feasible;

The construction of a sidewalk in the standard location would be very difficult to construct due to it being built over drainage structures. The sidewalk would need to be moved to a location on the applicant's property, but sidewalk construction is feasible. **FACTOR NOT SUPPORTED**

3. Whether the sidewalk would be located in a developed area, on a low traffic volume local street without sidewalks;

The site is located within a highly-developed commercial area that includes restaurants and retail establishments, with the exception of a large undeveloped tract of land approximately 500 feet to the west of the subject property. Nifong has with minimal existing sidewalks; however, Peachtree Drive (adjacent to the west of the site) and Monterey Drive (north side of Nifong) both include substantial section of sidewalk. Nifong is identified as a Major Arterial (not a local street), with substantial levels of traffic present. There will be a future construction project to widen Nifong Boulevard. A part of this project includes the construction of sidewalks through the length of the project. **FACTOR NOT SUPPORTED**

4. Current or future parks, schools or other pedestrian generators near the development for which a sidewalk or walkway would provide access.

The site is located within a highly-developed commercial area that includes restaurants and retail establishments. Rock Bridge High School and Gentry Middle School are located approximately 1,200 feet south of the property, and Cosmo-Bethel Park is located just south and west of those locations. **FACTOR NOT SUPPORTED**

Variance from Section 24-35 (Streets, Sidewalks, and Public Places; Sidewalks Required)

The second part of the applicant's request relates to Section 24-35 of the City Code, which requires a sidewalk to be installed on commercial zoned properties along arterial and collector streets. The applicant is requesting a variance from this requirement, which was triggered due to new construction on the site. In determining the need for the sidewalk, Section 24-35(d) provides the following factors for consideration:

1. Pedestrian traffic generators such as parks and schools in the area;

The site is located within a highly-developed commercial area that includes restaurants and retail establishments. Rock Bridge High School and Gentry Middle School are located approximately 1,200 feet south of the property, and Cosmo-Bethel Park is located just south and west of those locations. **FACTOR NOT SUPPORTED**

2. The existence of a sidewalk network in the area;

Nifong has with minimal existing sidewalks; however, Peachtree Drive (adjacent to the west of the site) and Monterey Drive (north side of Nifong) both include substantial sections of sidewalk. All undeveloped property to the west of the site will also require sidewalk construction at time of development. In addition, all other surrounding properties with similar characteristics to the subject property (commercial zoning, located on a collector or arterial) may be required to construct sidewalk in the future as well. **FACTOR NOT SUPPORTED**

3. The density of current and future development in the area;

The site is located within a highly-developed commercial area that includes restaurants and retail

establishments. Nearby undeveloped property will also be improved with commercial uses in the future. **FACTOR NOT SUPPORTED**

4. The amount of pedestrian traffic likely to be generated by the proposed development;

As a vehicle-oriented business, it is unlikely that the site will generate high levels of pedestrian traffic. However, as the business provides convenience items, it is likely that the site will generate pedestrian traffic from the surrounding residential users. **FACTOR SUPPORTED**

5. The cost of constructing the sidewalk;

Estimated construction costs provided by the applicant are 24% of the total cost of the exterior addition of the building that is triggering the requirement to construct sidewalks. **FACTOR NOT SUPPORTED**

6. Whether the terrain is such that a sidewalk is physically feasible; and

The construction of a sidewalk in the standard location would be very difficult to construct due to it being built over drainage structures. The sidewalk would need to be moved to a location on the applicant's property, but sidewalk construction is feasible. **FACTOR NOT SUPPORTED**

7. The extent to which trees, ground cover and natural areas would be impacted by the sidewalk.

The amount of vegetation other than grass that would be impacted is minimal. **FACTOR NOT SUPPORTED**

Conclusions

Staff finds that the request does not meet the standards for granting a variance for sidewalk installation on the subject property. However, per Resolution 48-06A, the City may approve the variance if an equitable arrangement for construction of the sidewalk is reached between the City and applicant. With that in mind, the applicant has agreed to dedicate five feet of additional right of way (ROW) along Nifong that will complement the planned future improvements of Nifong as identified in the FY2016 CIP. Currently, the amount of ROW adjacent to the site would necessitate the City's purchase of additional property from the property owner to enable the planned improvements to Nifong, which will include the installation of sidewalks along the property's frontage. In addition, the applicant will grant an additional easement along the new property line that can be used for utilities or other infrastructure purposes.

The proposed arrangement would delay the construction of sidewalk on the property, but given the near-term construction plans for Nifong included in the CIP, this delay enables the sidewalk to be constructed at the same time as the roadway is improved thereby eliminating the likelihood of future construction conflicts. Additionally, the right of way dedication is believed to be a financially equitable solution when compared to the costs of constructing the sidewalk at this time.

RECOMMENDATION

Approval of the requested variance, subject to the submission of a deed of dedication for the additional right of way and the granting of additional easements.

SUPPORTING DOCUMENTS (ATTACHED)

- Locator maps
- Variance Worksheet from applicant
- CIP (page 97)
- PR 48-06A

SITE CHARACTERISTICS

Area (acres)	1.27
Topography	Slight slope to the southwest
Vegetation/Landscaping	Turf, landscaping
Watershed/Drainage	Mill Creek
Existing structures	Gas station

HISTORY

Annexation date	1966
Zoning District	C-3
Land Use Plan designation	Business District
Previous Subdivision/Legal Lot Status	Legal Lot

ACCESS

Nifong Boulevard	
Location	North side of site
Major Roadway Plan	Major Arterial (unimproved & City-maintained). Minimum 106-foot width (53-foot half width) required.
CIP projects	See attached excerpt from CIP.
Sidewalk	Sidewalks required.

Report prepared by Clint Smith

Approved by Patrick Zenner