

EXCERPTS
PLANNING AND ZONING COMMISSION MEETING
COLUMBIA CITY HALL COUNCIL CHAMBER
701 EAST BROADWAY, COLUMBIA, MO
May 9, 2024

Case Number 138-2024

A request by Brush & Associates (agent), on behalf of Lisa Kulage (owner), for approval of a design adjustment seeking relief from Section 29-5.1(d) of the UDC, requiring construction of sidewalks on all street frontages. The 0.51-acre subject site is located at 811 W. Broadway. The waiver is sought for the entirety of the Greenwood Avenue frontage. Sidewalks are currently constructed along West Broadway.

MS. LOE: May we have a staff report, please.

Staff report was given by Mr. Rusty Palmer of the Planning and Development Department. Staff recommends denial of the requested design adjustment from Section 29-5.1(d) in regards to required sidewalk construction on the Greenwood Avenue frontage of the subject property.

MS. LOE: Thank you, Planner Palmer. Before we move on to questions for staff, I'd like to ask any Commissioner if they have had ex parte related to this case to please share that with the Commission so all Commissioners have the benefit of the same information in the case in front of us. Commissioner MacMann?

MR. MACMANN: Just a full disclosure thing. I worked in this house years ago. I don't think the same people even own it, so -- if they do, I don't remember who it is.

MS. LOE: Thank you. With that, any questions for staff? Commissioner MacMann?

MR. MACMANN: This is a Commissioner Loe rabbit hole, and maybe for Mr. Zenner. This house that exists on this property is 811 West Broadway. Correct? The spun off lot will be in front. Correct?

MR. PALMER: No.

MR. MACMANN: It will be back?

MR. PALMER: North side.

MR. ZENNER: It would be to the rear, and it would be addressed off of --

MR. MACMANN: All right. We avoided the rabbits. Thank you, sir.

MR. ZENNER: Go eat my spinach.

MS. LOE: Planner Palmer, I -- your last point, go back one slide.

MR. PALMER: One more?

MS. LOE: The -- no. No. No. That was it. The construction only required one lot as

redeveloped. This -- I was thinking this case is a little bit different than what we're usually presented with in that there's no new development improvements being proposed on the main lot.

MR. PALMER: Right.

MS. LOE: They're carving out -- dividing off a lot, and that's where the improvements will be. And I was sort of conflicted about -- I mean, the current lot has met the sidewalk requirements for when it was improved based on the time it was improved, one would say. So your statement here that we wouldn't require any sidewalk until such time that they actually did do redevelopment on that front side, which who knows when that would be. And can we -- is there -- was there more discussion on that, or --

MR. PALMER: So to clarify a little bit, basically, when the plat comes through, they'll provide a performance contract for the entirety of the sidewalk because both lots are -- are included on the plat. But the enforcement of that is typically when they come to us for a building permit, we would enforce it at that time. So when they come to pull a building permit, we make sure that they build the sidewalk along with whatever improvements they're doing. So what will happen is they'll pull the -- the permit for the house on the new lot and build the sidewalk, and then, you know, we'll give them an occupancy permit and they'll go on their way. And that other lot will never really be enforced until the same thing happens on it. As it's very nice, well-established home, I just don't have any way to anticipate when that would actually happen. So we'll have a gap from Broadway up to that new lot for the foreseeable future.

MR. ZENNER: I think what we also have to look at here is if you look at the specific provision that talks about sidewalks within the UDC, the sidewalk provisions are applicable to any newly created lot after the effective date of the Code's adoption, so that would be any lot created after March of 2017. So if you take a very strict interpretation of that, which is, I think, how you have to look at this, the fee calculation is based upon the entire Greenwood frontage. So you are creating, you are dividing an existing lot of record today that is addressed 811 Broadway. That lot exists. You are dividing that lot and you are, in effect, creating two new lots, the rear lot that would be the developed lot that would have the sidewalk triggered by its permit issuance, and you have the remainder of the existing lot of record which does become a new lot technically because it is today one parcel. Our standard practice, as Mr. Palmer just described, is that piece of sidewalk would only be tied generally to the reconstruction or some -- the reconstruction, basically, of the -- the original lot, the parent lot, so to speak. And that, I think, is why when you look at what the fee in lieu of is, you have to look at the fee in lieu of in the totality. You can't look at it in just the new lot being created and asking for that to only be waived. You have to look at the entire Greenwood frontage. The point is that the standard practice that we utilize is not to require sidewalk -- new sidewalk to be installed where existing development already is, it is to apply it to new development. That is not technically how the Code is written, the Code specifically reads that it is applicable to the creation of new lots after the adoption of the Unified Development Code in March of 2017. So the situation as described in Mr. Palmer's report identifies a slew of rationale as to why a full waiver may be appropriate or the Commission has the purview to consider a fee in lieu of, or may consider possibly chopping off the portion of 811, that lot that will be created that has the existing home

on it, and applying the sidewalk construction to the 60 foot wide lot that would be created, the true new lot. However, when you look at that, and you look at proportionally the cost of the sidewalk to the actual home improvement on the smaller lot, you have to weigh and balance that against its -- its expense, as well as its utility. It's a 60-foot-wide sidewalk segment along an entire street that doesn't have any sidewalk either to the east or west. So, you know, I think that all of those factors have to come into your consideration. The technical component, however, is is a sidewalk would be required along that entire Greenwood frontage and, technically, you could be -- you could stipulate that the plat -- the plat would only be approved with a performance contract and a sidewalk being shown with construction plans for the new lot that show all of the construction on the Greenwood side. That technically would be the appropriate way of dealing with it because that would then assure that the 811 parcel or home would be required to build the sidewalk along that Greenwood frontage, if you choose not to do a fee in lieu of or a complete waiver based upon the other factors.

MS. LOE: Just a follow-up question. So the Broadway lot, just to differentiate, the south side lot, is there a threshold for a building permit that would trip the requirement for the sidewalk, because I can see -- I mean, if it's -- if it's a bathroom remodel coming in versus I'm thinking we're talking more of a complete rebuild --

MR. ZENNER: Substantial renovation?

MS. LOE: Yes.

MR. ZENNER: The home right now, if I am not incorrect, is probably legal nonconforming because it sits too close to the west property line under the current code. So the home, in and of itself, is constrained from being able to be expanded where the proposed property line is being set. That may be at the minimal rear yard requirement that will be created, and then we have to deal with the median front yard setback as it relates to the Broadway frontage. So expanding the home forward towards Broadway may also not be possible. So to Mr. Palmer's point, when that renovation -- when that major renovation kicks is completely unknown, and you may end up with a 60-foot piece of sidewalk that's there for a decade before anything happens. And the house is well maintained, from what I can tell. I don't think that that's going to be a possibility that we would see major renovations or a tear down rebuild.

MS. LOE: I just wanted to add that given our evaluation of creating smaller lots and the potential for this happening more often, we might want to look at how this is treated and what we're tripping in the UDC. All right. Any other questions for staff? Commissioner Wilson, are you excusing yourself at this time? Thank you for being here tonight. Commissioner Wilson will be absent for the next two cases. I will open up the floor to public hearing.

PUBLIC HEARING OPENED

MR. SCHWEIKERT: Good evening. Kevin Schweikert. Brush & Associates, and 506 Nichols Street, Columbia. And I just want to thank Rusty and Pat for the thorough report that they gave. I really have nothing else to add, other than it's an established neighborhood that you all know, and this -- this and the lot across the street are probably the only two lots that could possibly be divided in this way and

have another. So if we did build a walk to connect to Broadway, of course, about 270 feet, and then about 900 more feet before we get to the next intersection. So, anyway, happy to answer any questions.

MS. LOE: Thank you. Any questions for this speaker? I see none. Thank you. Any additional speakers on this case? Seeing none. We'll close public hearing.

PUBLIC HEARING CLOSED

MS. LOE: Commissioner comments? Commissioner Carroll?

MS. CARROLL: Thanks. I thought I would just call out since I spoke on sidewalk waivers recently. The difference in my mind between this case and the previous case is the fact that Greenwood is already built out and well established and unlikely to develop any further. I appreciate your commentary on the new lot creation and sidewalk. I think some of these concerns highlight the need for other mechanisms to fill in missing sidewalks, and other mechanisms to repair sidewalks that need maintenance on projects that need sidewalks. In this case, I agree with Rusty's evaluation that everyone is walking in the street safely and happily due to the low traffic.

MS. LOE: Commissioner Placier?

MS. PLACIER: Yeah. I -- I didn't want this to be a case where the perfect is the enemy of the good because we do want to create these kinds of lots. This is a case of these very deep lots, as you can see all along there. Only on the corners is it possible to create another lot and to create another home that's sort of consistent with the character of the size of the other homes going north. So if it's possible to create another -- another home and fill that in, I would like to support that, and not have the fee in lieu apply.

MS. LOE: More comments? Commissioner MacMann?

MR. MACMANN: I have a comment and I have a motion if there are no other comments after that. Regarding filling in and creating more homes, I -- as I was telling Commissioner Carroll a little earlier, I drive by this all day -- almost every day, and in unintended fashion because I'm looking for Glenwood, and I go down Greenwood -- so if we're going to have minor technical corrections on this one, too. But adding that sidewalk is just going to do nothing but pop up the price of anything that goes in there. So I am going to make a motion whenever we're ready, and I'm going to be in support of that motion to grant this waiver.

MS. LOE: I just want to add that given -- given the difficulties with the site, both the utility poles, the change in grade, the existing conditions, the fact that I don't anticipate we would see that sidewalk on the south lot for who knows how many decades, I don't support fee in lieu or requiring it at this time. Commissioner MacMann?

MR. MACMANN: If there are no other questions or concerns, I have a motion. With technical corrections, in the matter of 811 West Broadway, design adjustment, Case 138-2024, I agree to waive the design adjustment.

MS. LOE: Same motion. Do we have a second for that motion?

MR. MACMANN: I did that because I think it would be more correct.

MS. LOE: Okay.

MR. MACMANN: I said approve. It's -- which would be more -- we're timing out from the motion here for a moment.

MS. LOE: Right. But you agree to -- so I just -- I'm trying to figure out if when we vote yes, we're approving --

MR. MACMANN: Commissioner Placier asked me this very question, and I want to make sure we get the verbiage right so I'm not confusing people like the audience, the public, and Council on the vote.

MR. DUNN: It looks like legal has an opinion on that.

MR. CRAIG: Yeah. Just to make a clear record, maybe rephrase the -- the motion --

MR. MACMANN: Should I say approve the design adjustment? Should I say in favor of the design -- approve the design adjustment? I'm getting nods --

MR. CRAIG: I think --

MR. MACMANN: -- nods on that one. In the matter of Case 138-2024, I move to approve the design adjustment.

MR. STANTON: Second.

MS. LOE: Moved by Commissioner MacMann, seconded by Commissioner Stanton. We have a motion on the floor. Any discussion on this motion? Commissioner Dunn? No? Commissioner Carroll, may we have a roll call, please?

Roll Call Vote (Voting "yes" is to recommend approval.) Voting Yes: Ms. Placier, Ms. Loe, Mr. Stanton, Mr. MacMann, Ms. Carroll. Voting No: Mr. Dunn. Motion carries 5-1.

MS. CARROLL: I have five yes votes and one no vote. The motion carries.

MS. LOE: Thank you. Recommendation for approval will be forwarded to City Council. That brings us to our final case for the evening. Mr. Crockett has persevered through the evening with us.