

EXCERPTS
PLANNING AND ZONING COMMISSION MEETING
COLUMBIA CITY HALL COUNCIL CHAMBER
701 EAST BROADWAY, COLUMBIA, MO
OCTOBER 5, 2017

MR. STRODTMAN: First item of the evening is a subdivision item. At this time, I would like to ask any Commissioner who has had any ex parte communications prior to this meeting related to Case 17-190, please disclose that now so all Commissioners have the same information to consider on behalf of this case in front of us.

Case No. 17-190

A request by A Civil Group (agent) on behalf of McGary Properties, LLC (owner) for approval of a one-lot final minor plat on A (Agricultural) zoned land, to be known as McGary Subdivision Plat 2, and for approval of a design adjustment to 29-5.1(d) to waive sidewalk construction along St. Charles Road. The 0.78-acre subject site is located at the northwest corner of St. Charles Road and Tower Drive.

MR. STRODTMAN: May we have a staff report, please.

Staff report was given by Mr. Clint Smith of the Planning and Development Department. Staff recommends approval of the final plat for McGary Subdivision Plat 2, and denial of the design adjustment to waive sidewalk construction as required by 29-5.1(d).

MR. STRODTMAN: Thank you, Mr. Smith. Commissioners, any questions for staff?
Mr. MacMann?

MR. MACMANN: Thank you, Mr. Chairman. Planner Smith, could you go back to that oblique aerial for me, please?

MR. SMITH: I'm sorry. Which one?

MR. MACMANN: The oblique aerial, the one you had up just a moment ago. Thank you. It's my understanding that to the east of this property, we have development and/or potential development happening rather quickly; is that a correct assumption?

MR. SMITH: I could tell you the Coliseum Preliminary Plat is located in this general vicinity here, so they have an approved preliminary. So they could move forward with a final plat at any point. I don't -- I'm not aware of any other movement on that site since a preliminary was approved; you know --

MR. MACMANN: To the south of the property across the street, is there any development in that area?

MR. SMITH: Large property to the south? Not that I'm aware of.

MR. MACMANN: Okay. And then as we move to the east, just west -- excuse me -- just east of the trail junction, those large -- there. Anything in that general area? Anything in the pipeline, so to

speak?

MR. SMITH: No, not that I'm aware of.

MR. MACMANN: All right. That's the question I have for the moment. Thank you very much.

MR. STRODTMAN: Commissioners, any additional questions for staff? I see none. As we do in past practice, this is a subdivision matter, not a public hearing, but if there is someone in the audience that would like to come forward and give us any relevant information to this case, you're welcome to do that at this time. We just ask that you give us your name and address, please.

MR. MURPHY: Good evening, Chairperson, and chair members. My name is Kevin Murphy; I'm with A Civil Group. Our offices are at 3401 Broadway Business Park Court. I've got some additional photos and information here, if you wouldn't mind. If you wouldn't mind, after this discussion, if I could get those back, save them -- save some paper for City Council. I'm here representing McGary Properties. McGary Properties consists of Terry McGary and his wife, and his sister, Deidre. These are the only four properties that they own are just immediately around this property. And they're just doing some housecleaning. They inherited this property from the parents who bought it in the late '60s, early '70s, and they've inherited that, and they want to kind of get it all cleaned up so their heirs do not have to deal with it. The -- the pictures I'm showing you here shows quite a bit better the slope on this ground. The graphic that Mr. Smith had up there was not quite accurate. The sidewalk goes back a good bit further than what that is, and some of those fill areas in there, I would say, average four and a half feet deep. On the back of all those pictures, I kind of drew a graphic, as well, with some additional information below it. But, yes, four-and-a-half to five-foot deep fill. The cost that Clint was discussing was just for the fill dirt alone in that area. We would also have to reconstruct the driveway that is on the south end of this property as that driveway does cross onto this property, and so -- so not only leveling that out or actually raising it above the street six inches for the curb and then a 2 percent slope to the property line, and then come back down at a three-to-one slope extends it out even further. If you're finished looking at those pictures, on the -- the diagram that I had, I've got -- I've got a few notes on there. A typical sidewalk location is seven to twelve feet closer to the street, so that's a 38-foot pavement and a 66-foot right-of-way, or a 32-foot street and a 50-foot right-of-way. Sidewalk construction of 214 feet of improved -- of improved sidewalk on an improved street would be -- at \$4 a square foot would be a little over \$4,000. Sidewalk construction with the grading on here is over twice of that -- for the grading only is \$10,200. That equates to 13 percent of the cost of the lot. If we assume 45 -- this lot is worth \$45,000, that's 13 percent for the dirt work only that it adds, 23 percent of the cost for the dirt work and the walk, and then if we had to build the -- rebuild the driveway and such, that would be 49 percent of the cost -- almost 50 percent of the cost of what they would be able to get for this ground would be building a sidewalk in this area, considering all those factors. With this plat, the owners dedicated over 7,000 square foot of right-of-way, which alone, at \$1.68 a foot -- a square foot, would equate to 21 percent or 13 percent of the cost of the lot, and it totals 21 percent of the ground that they initially had. Again, there's one and a half miles of street between Richland and I-70, and there's currently 610 feet of existing sidewalk on there, possibly

600 more if the Coliseum development does eventually final plat, and that is a 43-lot subdivision. So for us to put in a third of the amount of sidewalk for one lot versus 43 lots is quite a bit more burdensome. The closest sidewalk connector is -- was pointed out is the Hominy Creek trail. Half of a -- it's about a half mile, and that's accessing it through a private development and private streets or three-quarters of a mile where there's a public street access to that. As far as improving St. Charles Road, the current CIP list has -- in the one- to ten-year range has 16 street projects. Each of those projects come at no cost to the adjacent property owners and some are actually getting compensation for right-of-way and easements with that, and they're getting sidewalks constructed with that, as well. In the ten-years-plus CIP program, there's 92 street projects. Again, no cost to the adjacent owners. So if you take 92 projects at 16 projects per ten years, that equals 5.75 ten-year project cycles, so that's 57 and a half years to get through all of these projects. St. Charles Road is not on the ten-years-plus CIP plan. I think -- I had spoken with a supervising engineer at the City, and after he had really reviewed it -- I don't think he was the one that did take a look at it, but he agreed that if there was an area for a variance, this would be one of them. He had suggested again the payment in lieu of for the \$4 or whatever it takes for the concrete square footage work. I think we would request that the City entertain the dedication of this additional right-of-way, this 7,000 square feet, as an in lieu of payment.

MR. STRODTMAN: Thank you, sir.

MR. MURPHY: Thank you.

MR. STRODTMAN: Commissioners, any questions of this speaker? Mr. MacMann?

MR. MACMANN: Thank you, Mr. Chairman. Thank you, sir. I do hear your point. I spent a lot of time very near this property. I'll just tell you that right away. And one of the reasons I asked Planner Smith about these developments is I know that many of the adjacent property owners are looking to sell and/or develop, so I was just wondering where we were on this, and St. Charles will develop. And you're so right about the CIP. The CIP is reflected -- is reflective -- my view -- of how much money the City has or doesn't have. That's why it's 57-and-a-half-year cycle. So you would -- I wanted to get back to the fee in lieu of because I'd love to see sidewalks on St. Charles or -- because we have problems. We've built out and then we've got no sidewalks, and everyone wants a variance. You would -- your view of payment in lieu of would be the donation of the property alone, no other cash or anything like that to help the City in the future? I mean, you're presenting the sidewalk is going to cost \$20,000 for you guys to do, or something like that. Right?

MR. MURPHY: Yes, and/or more --

MR. MACMANN: Twenty --

MR. MURPHY: Again, we haven't really -- as a single-lot subdivision, and us being hired to really just do the subdivision process, the platting process, we haven't really studied this, you know, immensely. But the -- yeah. We consider that 7,000 square feet, you know, over \$11,000 in value.

MR. MACMANN: I -- and I don't -- I don't doubt you there.

MR. MURPHY: An initial -- initial fee --

MR. MACMANN: Yeah.

MR. MURPHY: What I have heard from the City Counselor in a previous variance request was, if you read the -- I don't know if you've got a copy of the policy resolution on unimproved sidewalks. In there, it notes that -- somewhere in here -- that the sidewalk -- the payment in lieu of is for the sidewalk to be constructed on that property. The -- I think the City Counselor has backed that up, but they said that there could only be a seven-year time limit associated with that, that we can't -- the City can't indefinitely hold this money, that there has to be a time limit within it that they can use that property to do something towards a project. So I think that's where that stands. So, to me, it's just less paperwork for the City and everything else to, you know, keep track of this. I know they're always trying to cut back on -- on items that they have to consistently track, land developments and things of that nature, but --

MR. STRODTMAN: Any additional questions of this speaker?

MR. TOOHEY: I have one.

MR. STRODTMAN: Yes, sir.

MR. TOOHEY: In looking at the pictures, you know, when someone decides to develop on this -- to build on this lot, I mean, it looks like they're going to have haul in a bunch of dirt anyway just to build a house. So --

MR. MURPHY: No. They'll build into the hill. The house will come down. It may require a small retaining wall if they want a flat area in front of the house, but, basically, the access, it'll be open-ended two-story ranch. The access will be and the garage will be on the backside of the house.

MR. STRODTMAN: Any additional questions, Mr. Toohey? Yes, Ms. Loe?

MS. LOE: Just clarification on the right-of-way. And this is a requirement for being on the major collector, St. Charles.

MR. MURPHY: Yes, it is. But a lot of times that's granted, again, by 40-, 50-, 100-lot subdivisions where, you know, that -- where somebody is making a decent profit off of ground and can afford to have the ground and can afford to donate that --

MS. LOE: No. I just -- I bring it up because all property owners along St. Charles have to provide that right-of-way to St. Charles. Correct?

MR. MURPHY: If they plat. If the City were to go out and say they wanted to build that road tomorrow, well, you're going to buy that right-of-way from me.

MR. STRODTMAN: Any additional questions, Ms. Loe? Thank you. Additional questions for this speaker, Commissioners? I see none. Thank you, Mr. Murphy. Thank you.

MR. MURPHY: Thank you.

MR. STRODTMAN: Any additional speakers like to come forward? I see none. Thank you. Commissioners, for the discussion, questions for staff? Clarification? Anybody like to get it started? Ms. Russell?

MS. RUSSELL: This is for staff really. Could you give us the -- you gave -- you listed three options that we could do. Could you do those one more time?

MR. SMITH: Sure. It would basically be -- one would be to recommend approval of the variance, would basically waive all requirement for them to be financially responsible for the sidewalk. One would be to -- to deny the variance, but then consider accepting a fee in lieu instead of construction or allowing the construction, which would basically be denying the variance and plat as it is, if that makes sense.

MR. STRODTMAN: Thank you, Mr. Smith. Ms. Loe?

MS. LOE: Can you comment on any limitations within that? You were describing a three-year requirement, I believe, for the sidewalk to be constructed --

MR. SMITH: Correct.

MS. LOE: -- if the variance was not granted and can you comment on the seven-year limit on payment in lieu?

MR. SMITH: Sure. I'll start with the three years. So in situations such as this where there's necessary public infrastructure, we require some sort of surety and the performance contract is that surety and it guarantees that the infrastructure will be constructed within three years. And then they can extend that if -- if they have not constructed it at that point, as well. But, typically, if you -- if you submit an application for a building permit, sidewalk construction is part of that, as well, so that would trigger it potentially at that point. The seven years, I'm not familiar with a limitation on collecting fee-in-lieu type situations where we would not be able to hold it for X amount of years. So I do know there's some limitation on the performance contract and it may expire, you know, at a seven-year point, but that's kind of a whole different conversation, I think. So maybe that -- maybe that was part of that, but as far as that, unless -- Mr. Zenner has more information.

MR. ZENNER: I was just conferring with our legal counsel, Mr. Caldera. It is -- I believe we may have seven and eight years maybe being misplaced here. The standard performance contract, as Mr. Smith was just explaining, is a three-year standard performance contract. In the event that a performance contract is breached, meaning that the improvements required to be installed have not been done within those three years, the City does have, at a minimum, five additional years in which to seek to get performance out of that original performance contract, which means a total of eight years potentially. We are unaware of any limitation as it relates to a fee in lieu of being able to be applied to a project within its general area within the City's structure or its authority to receive money in light -- or in lieu of an actual improvement. If there is no improvement or the improvement is made -- I am personally aware of this because we have had to refund money that was allocated for a particular improvement after that improvement was funded through another source. So if, in fact, this money is not -- if it's received, it's going to be catalogued with this particular request with this roadway segment and as a CIP project were to become available to have it applied to, it would be coded and applied to this project. Prior practices have not always been able to monitor where that money goes or how it's been received and where it's intended to. You learn from your past mistakes, and we have developed systems that allow us to track the money to the projects that may be impacted by those contributions. So we have vacillated as a Commission and as a Council, I believe, as it relates to payment in lieu of versus the actual requirement

of construction, so that is the situation you're in here. You either delay construction until there's more of a system by which it could be improved, and that may be through other development or it may be through a City project. As Mr. Murphy points out, this particular roadway segment is not on the ten-year CIP. That does not necessarily mean that should development explode in this particular area, that that roadway does not get placed on the ten-year CIP list, or through a -- right now, we're in a ten-year bond window for road construction. It would have to be contemplated and then, obviously, cued in as we look as development. I think, Ms. Loe, you pointed out very accurately, any property along this particular area of St. Charles Road that is proposing to subdivide is required to dedicate right-of-way. They are required to construct sidewalk without the grant of modification to such. Mr. Murphy is also correct that if we were to proceed forward with a roadway project, we would be acquiring potentially, or we would be having dedicated to us for other considerations, right-of-way to facilitate that particular road improvement. Waiver of sidewalk construction is basically the placement of a burden for its construction onto the public at some point in the future.

MR. STRODTMAN: Thank you. Ms. Loe?

MS. LOE: One final question for staff. If the City undertook the sidewalk construction and that modified elevation or apron at the entrance of the driveway, would the City then reconstruct the driveway or that be on the owners responsibility?

MR. ZENNER: That would be our responsibility as a result of the road construction project.

MS. LOE: Thank you.

MR. STRODTMAN: Any additional questions? Mr. Stanton?

MR. STANTON: The city group brought up the possibility of moving the land over. Are we saying that that was going to happen anyway?

MR. STRODTMAN: Yes. That was --

MR. STANTON: There was no value in that deal for us, as the City?

MR. STRODTMAN: As part of the -- in order to be approved, they have to give the right-of-way for St. Charles, since it's -- you know, they have to do that as part of this process regardless. The applicant would like to use that as payment towards -- in lieu of doing the sidewalks. They believe there's a value to that -- those -- you know, that land that they're donating or giving -- you know, giving to the City for a right-of-way -- for a future right-of-way. They would like to see that value be associated with the sidewalk, where normally that would be just required as part of the process. And as we all understand that that -- you know, we're -- we are not requiring them to put sidewalks. They're come to us asking for a change and for a final -- you know, so they're asking for -- right. So that's what's triggering it, not vice versa. Commissioners? Mr. MacMann?

MR. MACMANN: I just have a bit of discussion. It has been -- for sidewalks, it has been our policy in this community for some time to add sidewalks where you could to improve walkability, quality of life, et cetera, et cetera, et cetera. And one of the things we're asked to do all the time is to give sidewalk variances. And sometimes they can't work, like, physically, they don't work. It physically works here. I

can -- I understand the financial burden. I would anticipate -- this is just my view -- there's a lot of buzz in the St. Charles area. That property is going up in price. It'll -- it'll certainly develop inside ten years. Whether the City approves that road, I don't know. Our practice of -- or a practice of continually giving sidewalk variances is problematic, because then we come back in the future and the next guy down says you didn't make X, Y, Z did it, why -- you know. He's 100 foot further down or something like that. That's all I have to say. I do not have a motion.

MR. STRODTMAN: Commissioners, any additional discussion? A motion? Mr. MacMann, like to make a motion?

MR. MACMANN: Well, let's just put it to a vote. I move in the Case of 17-190, McGary Subdivision Plat 2, final plat, to approve the plat and to deny the design adjustment.

MS. RUSHING: Second.

MR. STRODTMAN: Thank you, Mr. MacMann for the motion to approve the plat, but not the sidewalk variance adjustment -- design adjustment, and thank you, Ms. Rushing, for a second. Sorry. I'm trying to do two things at once. Is there any additional discussion needed on that motion and second? Mr. Stanton?

MR. STANTON: Would it be appropriate to add an amendment -- (inaudible).

MS. RUSHING: Not if we're denying -- if we're denying the variance.

MR. STRODTMAN: The motion as is -- as is denying the sidewalk all -- he would -- the applicant would be required to build a sidewalk under the current motion as is; that was seconded. Am I correct?

MR. MACMANN: That is -- that is how I put it.

MR. STRODTMAN: Any additional discussion needed? I see none. Can I have a roll call, Ms. Loe.

MS. LOE: Yes, Mr. Chairman.

Roll Call Vote (Voting "yes" is to recommend approval.) Voting Yes: Mr. Toohey, Mr. Harder, Mr. MacMann, Mr. Strodtman, Ms. Rushing. Voting No: Ms. Russell, Ms. Loe, Mr. Stanton. Motion carries 5-3.

MS. LOE: Five approve, three denial, motion passes.

MR. STRODTMAN: Thank you, Ms. Loe. Our recommendation will be the motion was approved as was -- so our recommendation will be forwarded to City Council for their consideration and approval or not. Commissioners, if you'll hand your copies forward, and we appreciate the applicant's desire to be environmentally friendly. Thank you, Mr. Murphy.