

EXCERPTS
PLANNING AND ZONING COMMISSION MEETING
COLUMBIA CITY HALL COUNCIL CHAMBER
701 EAST BROADWAY, COLUMBIA, MO
September 21, 2017

MR. STRODTMAN: Moving on to Case 17-216 in the subdivisions. At this time, I would ask any Commissioner who has had any ex parte communications prior to this meeting related to Case 17-216, please disclose that now so all Commissioners have the same information to consider on behalf of this case in front of us.

Case No. 17-216

A request by Central Counties Surveying (agent), on behalf of Wabash Arms of Columbia, LLC (owners), for approval of a two-lot subdivision to be known as "Athens Subdivision, Plat 1" and a design adjustment from Appendix A.6(b) of the UDC pertaining to lot corner radii. The subject 0.52-acre site is located at the northwest corner of Ninth Street and Walnut Street.

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

Staff report was given by Mr. Rusty Palmer of the Planning and Development Department. Staff recommends approval of "Athens Subdivision Plat 1" and the associated design modification.

MR. STRODTMAN: Thank you, Mr. Palmer. Commissioners, is there any questions of staff? Yes, ma'am.

MS. RUSHING: Okay. I have several questions with regard to the truncation, the rounding of that corner. Is the City changing its position that that is -- rounding those corners is the best pedestrian-friendly way to develop downtown? Are we changing that? Because it seems that we keep being asked to allow people to deviate from that requirement. And if that's going to be a standard request, shouldn't we just not have that requirement?

MR. PALMER: Well, I think in this location, due to its built-out nature. I know one of the previous cases --

MS. RUSHING: But they're all down -- all of our buildings are built out. And it was my understanding that as buildings were torn down and new buildings were put in, that's when we needed to have that design. So -- and previously we've discussed this, and my understanding was that this existing building is not going to be required to change.

MR. PALMER: Right.

MS. RUSHING: It's only if something is built to take the place of this building that they would

need to have that design. And if we say now that in the future, no building that replaces this building is going to be required to have that design and repeatedly being requested to do that, then aren't we really giving up that requirement? Because that requirement is not going to require this property owner to make any changes in their building.

MR. STRODTMAN: Ms. Loe?

MS. LOE: Just to follow up. My question was going to be, is that exception being required for the current existing building only, or would that carry forward to any future development, because if it does carry forward, I share some of -- concerns.

MR. ZENNER: Ms. Rushing's concerns. And I would -- I would explain that once a plat is recorded to define the boundaries of the built environment, since this is currently not a consolidated lot to create one individual parcel which was a change in our code. We used to allow buildings to be built over property lines and that was taken out with the adoption of the UDC in March. So any redevelopment of this site with a full tear-down rebuild, because this plat is being approved with the potential of this design adjustment being approved, no. They would not be required to come back and put the corner truncation in at the future redevelopment because the lot has been legally established with the design adjustment. Not unlike variances that are granted to zoning standards, design adjustments run with the property until such time as the property is subsequently altered through another platting action. So if, in fact, that is a concern that is shared by certain Commissioners, the request for the design adjustment may be inappropriate and the radii should be put in. While it will not affect immediately this building, it does create again the issue that should an expansion of this road right-of-way be desired, which in this particular location is unlikely, that building may need to be altered in the future as a result of that because it becomes public right-of-way then that is being platted through the corner of the existing building that is there. We did discuss this at length when we approved the UDC. Now there is no question that I do recall the idea of corner truncations within the downtown district not being a requirement of the Code given the nature of the design modifications and adjustments that we have received in the past. Unfortunately, for some unknown reason to myself, that particular exception was not placed within the M-DT district. It may be one that should be revisited and rediscussed with our traffic engineering department. But each development proposal that comes in, be it for platting, is unique in that you may have a plat that's being proposed as a redevelopment plan for full tear-down. The Rise apartment building is prime example of that. That whole half block, three-quarter block was torn down, and the ability to put in a corner truncation there existed at that time. You know, we always are capable of acquiring additional road right-of-way should we need it at a future date and being able to secure that through other means to get a radiused corner is possible. So the approval of a plat that conforms to the existing built condition with no indication of a tear-down as is in this instance and the request for the design adjustment wasn't viewed by our traffic engineering department as being problematic. It was practical in its -- in its belief to waive. If we come back and we believe that we have a design need to expand this right-of-way to put in the corner truncation, we would work with the applicant to potentially

purchase a corner of the building, if necessary. Unlikely that we would do that. We would likely redesign the street improvement to put a radiused intersection here where we have a bulb out. We may lose parking on street in order to accomplish that, neck the intersection down to create a more safe pedestrian crossing. There are a variety of different options that could be accommodated in the future should the road need to be rebuilt, radiused appropriately. Long answer -- long answer to a relatively easy question. And I think really the bigger issue is, as we move forward with the UDC and we prepare our first batch of amendments, it may be one of the amendments that we need to revisit, should we remove the radii requirement within the M-DT district entirely so we do not have these requests being brought forward. I would tell you that may in not all instances be appropriate, especially based on the potential scale of projects that may come in with a redevelopment plan in tow.

MS. RUSHING: But we don't know that if this property were redeveloped, that that requirement might not be -- might be appropriate --

MR. STRODTMAN: Right.

MR. ZENNER: At this juncture, we --

MS. RUSHING: That we will have waived it.

MR. ZENNER: At this juncture, we do not know because we're being -- we are being asked to replat this property with no desire to tear this building down. It's likely, I think if Mr. Palmer did the historical research on it, probably has some significant historical references to this building, and it may be one of those parcels and structures that would be probably viewed as a loss to the community's history if it were removed. That doesn't mean that it can't be, but, yes, you are waiving, if you do approve the overall design adjustment, the ability to require through development in the future redevelopment of this site that the corner be radiused because the plat will not have it and it is a legal lot once the plat is approved.

MR. STRODTMAN: Mr. MacMann?

MR. MACMANN: I'm going to speak in support of Mr. Zenner; how about that? And just that I know that HPC and those individuals in Columbia who love historical buildings love this building, and they wouldn't see it torn down. It has no protections currently. It's just on a list of we think these buildings are cool. On a more practical matter, we have the option to approve this as it's presented to us. If we were to table it to some other thing till this is fixed, perhaps Mr. Caldera can answer this question, but we would have to change the UDC to fix this, wouldn't we -- one way or another or potentially -- the problem that Commissioner Rushing has raised, because this is an ongoing issue that we're not likely to resolve from the dais at this time?

MS. LOE: Well, can we approve this without the design adjustment?

MR. MACMANN: And require that it would have a radius? And we -- so you would be moving to tear a portion of the building down; is that what you're --

MS. LOE: No. There's no requirement to change the building at this time. It's for future development. It's for recording the plat.

MS. RUSHING: And if they want to sell that smaller property, they would be able to do that.

MR. STRODTMAN: Mr. Zenner?

MR. ZENNER: It is -- it is possible for you to -- these are two separate items, so you have a final plat. The final plat is predicated on a design modification being granted or a design adjustment being granted. If you deny the design adjustment -- so the order of operation would be, you would have to separate the motion, one for the design adjustment, deny the design adjustment. You could, at that point, place a reasonable condition on the approval of the plat, and that would be that it must comply with the design -- the design standards of Appendix 6(b), which the corner truncation requirement, prior to processing to Council. That would be your motion if that is what you are desirous of. You are correct, Ms. Rushing, Lot 2, which would be the rear parcel that has frontage on North Ninth, would be able to be created. It is not the subject of the radius. Therefore, you would only be requiring the radius for the purposes of future redevelopment. Again, this becomes an issue of we get these odd radiuses and this would be one of these situations, in where none of the other three corners have a corner truncation radius associated with them. And I will point out to you that when the parking lot, which is where the former park was at the corner, the northeast corner of North Ninth and Walnut, when that parking lot was constructed, I do not believe that it was replatted nor as a corner truncation. So there is no corner truncation on that parking area either, so --

MS. RUSHING: But if -- if that's your commitment to the downtown area, you have to start somewhere. It's like sidewalks. If every time someone says they don't want to put in a sidewalk, you say, okay, you don't have to put in a sidewalk. Then why require them in the first place?

MR. ZENNER: Ms. Rushing, I understand your point, and I think the practice that we have had here within the downtown has been historically our traffic engineering department has waived corner truncation requirements in most instances that have come before you. We self-imposed a corner truncation requirement on our Fifth and -- or is that -- the parking -- the Fifth and Cherry parking structure; however, we waived it on the opposite side of the property that was being platted for the University. So -- and that was based upon the belief that there were other plans associated with improving the pedestrian network that would be facilitated by that corner truncation at that location. Again, this particular instance, our engineering department evaluated what their needs were and they didn't believe it appropriate. I completely agree with your position, though. If we want to take a standard position that we don't want corner truncations downtown, we need to amend the regulations, but that goes to Mr. MacMann's point. To amend the regulations requires direction first from Council and then the Commission's action of holding a public hearing to do so. In this instance, if you are uncomfortable approving the design modification, deny the design modification or adjustment, require the plat to be produced with a required corner truncation prior to presentation to Council.

MS. RUSHING: And then wouldn't that bring the issue to Council's attention, and if they --

MR. ZENNER: It would, and I think what we will do in summary of the Commission's discussion this evening, we will identify this as part of what the Commission's discussion was as it rendered its

decision on this. The Commission -- the Commission's recommendation is just that, as you are aware, as we have previously discussed, it's a recommendation. Council may say, well, the Commission has raised a very good point, but the applicant and our own engineering staff don't want that corner truncation. We're going to approve the plat with no corner truncation and we're going to direct the Planning Commission to correct the UDC. If that's the outcome that you're comfortable with, that's fine. Those are the options that exist in front of you.

MR. STRODTMAN: Ms. Loe?

MS. LOE: Could -- I mean, part of the issue right now, or for me the struggle is we don't -- nothing is being proposed at the site or on the other corners. Should at some time a project -- should something happen to this building and a new project come forward, could, at that time, they ask for a variance or conditional use on the corner in question again?

MR. ZENNER: As part of a development plan approval, which doesn't require a rezoning -- well, it doesn't require a rezoning action. This is M-DT zoned property. It is part of the regulating plan, so any construction that would occur here would be required to meet the RBL, the required building line location. The building plans would not necessarily come back before the Planning Commission. It would be a legal lot at that point.

MS. LOE: Uh-huh.

MR. ZENER: As part of our building permitting process, part of the evaluation of that permit, traffic engineering may be involved into that. And if we have identified a project at that point, if this is a full tear-down/rebuild, it is possible that if we did need to expand the intersection, we were doing a summary design of the intersection, we could acquire as a part of that tear-down/rebuild permit, possibly a right-of-way easement that would radius this corner, and we would have it transferred to us as possibly an easement that would allow us the ability to expand at the time of redevelopment as part of a building-permit process.

MS. LOE: But could it work the other way? I mean, if we don't approve the design modification now, and in 50 years it looks like we still -- there is no need for that truncation --

MR. ZENNER: They could come back and ask for that --

MS. LOE: -- could they come back at that time and ask?

MR. ZENNER: They could come back. They could request that the plat be reapproved without the radius and ask, basically, if in 50 years, we have the same regulations, to have a waiver.

MS. LOE: Okay.

MR. ZENNER: That would be appropriate as well at that point. So I think it gets to your point that, at this juncture, the building is not going anywhere. It is a platted line that has a defined encroachment into the right-of-way, typically something we don't like to do. But, again, it does nothing -- and it doesn't make any greater impact than exists there today with the building being built to the corner because the building is there. And the platting it -- replatting it to make it one lot with a radius doesn't change the fact that the building is there.

MR. STRODTMAN: Any additional questions, Commissioners, of staff? I see none. I'll open -- this is a subdivision and not a public hearing, but as is in past practice, if there is anyone in the audience that has relevant information in this case, please come forward and give it to us.

MR. ROGERS: John Rogers on behalf of Wabash Arms of Columbia, the owners of the property. Everything was pretty well stated, but a couple of things. First, I feel like a little bit of a victim of the new zoning regulations because I'm -- all we're trying to do is to split this into lots. And the -- the main building was a hotel that was built in 1900, and that's the Athens, and the smaller building behind it is a -- was the original jail and city hall here in Columbia. And we don't have plans to wreck or sell either of the properties. What we're trying to do is do a historic rehab development of the jail/city hall. We can't do that unless it's a separate lot, you know. So this -- we've -- we've got the tenant out of there. We're ready to do this redevelopment when we can, but we can't apply, we can't get the tax credits, and we can't do the project until we split it up to another lot. And to get the property subdivided in downtown, I have to file a plat -- I have to file this replat. And then we have these truncation requirements that have to be done. And if -- I'm here to get this design modification, but I don't know how I can get a plat that will have two lots that I can do it without the design modification under the current zoning ordinances. And I -- and I understand that this is a problem that would exist for most of the buildings in the -- in the downtown area, but I'm not sure how anybody can ever redraw the property line in downtown if this is going to be the procedure because you -- we aren't going to wreck the building and we aren't going to be -- he said submitting a project for a building application. All we're trying to do is redraw the lot line. If there's any other questions, I'd --

MS. RUSHING: I have a question.

MR. STRODTMAN: Ms. Rushing?

MS. RUSHING: Do you -- I mean, you understand that if your request is not granted, you're not going to have to change your building?

MR. ROGERS: I -- but I don't -- I don't understand how the plat can be approved by the City Council if it doesn't meet what the zoning requirements are. And so I'm in a -- I'm in a situation where I have to ask for the --

MS. RUSHING: No. You're -- you would be a legal nonconforming use, so you can continue your building in -- in its current place.

MR. ROGERS: Well, okay. Well, I guess if that's the situation and the plat would be approved, I would have never been here asking for a design modification. I was told that I had to do this to get the plat approved.

MR. STRODTMAN: Mr. MacMann?

MR. MACMANN: If I may, just a -- the UDC is new. We spent forever on it, and we're running into these things as we come forward. So we're sorry we're taking your time, but some of this is an object lesson so the entire community could learn from it because we have this problem and we keep giving modifications and we're trying to fix it.

MR. ROGERS: Right.

MR. MACMANN: Apologies.

MR. ROGERS: No. No. I totally understand. I'm –

MR. STRODTMAN: Commissioners, any additional questions? Thank you, Mr. Rogers.

MR. ROGERS: Right. Thank you.

MR. STRODTMAN: Any additional speakers like to come forward? Commissioners?

Ms. Russell?

MS. RUSSELL: I have a question for staff again. If we approve this with the design modification, how do we get the Council to ask us to relook at the UDC to change the M-DT so that we don't have the truncation requirement?

MR. ZENNER: As with many of the amendments that we are going to be proposing, there will be a batch of proposals that are brought forward. We just include this in that. I don't think necessarily it specifically has to be addressed at this -- it will not be addressed at this point immediately. We do have a sequence of amendments that we're going to be proposing forward as corrective observations to the Code. I think, as Mr. MacMann pointed out, we're all learning this together. Our staff for BSD is identifying things that we have to resolve. They're all going into a kitty. That -- that kitty is going to be slowly emptied because we can't unload 50, 60 text amendments possibly at once. This is one that may float to the top because it does impact platting actions that are not uncommon in downtown, and because of the changes to the UDC that you cannot build over a property line, you cannot get building permits without having a consolidated lot, it is likely to come up more frequently, so this is one that we can expedite. But I would tell you that it will expedite probably sometime between the end of this year and first -- the end of first quarter of 2018. We can operate -- until then, we either -- we either need to administratively operate with the Director's decision, and that would be with concurrence of the Public Works Director, that we no longer apply this particular provision within only the M-DT zone, and that's something that we can examine at this point following this meeting to try to get that administrative decision made and then follow that up with a formal text amendment to address it permanently. Again, part of what the discussion here this evening is doing is raising this issue once again and providing its clarity. There's two options here. You either require it as a mandate in all instances, and there is no design modification, so we set one standard and everybody is following the same standard, and we don't make recommendations of waiving it, so you have corner truncations at all of the intersections that are being redeveloped or being replatted, not necessarily redeveloped, so in the future we have those corner truncations even if the existing building is there at the time of replatting. Or we decide we no longer require it, period, and we go with 90-degree intersections at every one of our intersections downtown. Those are the two options. The second option requires at least an interim authorization by the Director of Community Development and the Director of Public Works to follow that procedure administratively, and you will never see another design adjustment for this request -- this type of request, or we will be continuing to have folks submit design adjustments because they don't want to provide a corner

truncation and our staff is consistently making a recommendation of denial -- not approval, it'll be a recommendation of denial because we are trying to establish consistency throughout downtown at all of our intersections regardless of what the condition is. Those are the two options as I see them, as you are all concerned -- what I'm -- what I'm understanding to be the concern. And I think what we do here, what we're proposing here is we have evaluated this intersection, what our belief is for future road improvements, and we have said in this instance at this intersection, we don't have any proposed road improvements, we will not be making any proposed road improvements, and therefore there is no need for a corner truncation. That's why the design adjustment process functions the way it does. It requires that we evaluate each instance separately and uniquely based upon the characteristics of that instance. I don't like often making blanket regulatory standards that waive either requirements that may be beneficial for us in the future, or apply them in all instances where they may not be beneficial for us in the future. That's part of what I think the struggle is here. In this instance, we say we don't need it. Somebody may plat two, three blocks down from here and we say that's part of the major roadway plan and we don't have enough right-of-way, we want it. Or we have City property and therefore we're going to impose it upon our own property because we know we can do that, and it doesn't create an issue. And that was what happened at the Cherry Street Garage. We imposed that on our ourselves. But I -- so I can address the issue. I don't think Council has to specifically direct you to do it. We will bring back you a report or a determination as to how we'll handle it in the future if that's what you would like to do. If you deny it again, if you deny the design adjustment, as Mr. Rogers understands correctly, your recommendation of denial would mean that the plat would need to reference the radius. He can still appeal your recommendation to City Council to not have the radius shown on the recorded document. He would have had to have replatted this property, period, and it would have had to have gone through this process because it did not have a previously approved plat on it that met the definition of a legal lot. So he is here because of our replatting requirements, not because of the design modification. The design modification is part of his request. Platting was required regardless and it had to come through your body to City Council.

MR. STRODTMAN: Ms. Loe?

MS. LOE: Mr. Zenner, is the design modification necessary for the replatting action?

MR. ZENNER: Yes, it is, because it does not comply with the regulatory standards. All --

MS. RUSHING: But we could approve it without?

MR. STANTON: But he's not compliant.

MR. ZENNER: Yes.

MR. STRODTMAN: Yes. That would be --

MR. ZENNER: Yes, you could. And you're -- again, your denial of the design modification means that Mr. Rogers and ES&S, which is the surveying company that prepared this plat, has to prepare the plat in compliance with all aspects of our Unified Development Code, which Appendix A.6(b) requires a 30-foot corner truncation at this southeast intersection -- the southeast corner of the property. That is what a denial means. Denying the modification requires that they meet all regulatory standards.

MS. LOE: Right.

MR. ZENNER: Approval --

MS. LOE: But couldn't it be platted and meet the new UDC --

MR. ZENNER: If Council approves it. If Council approves -- if Council approves your denial, he would have to have a plat that shows a radius. If Council does not approve your denial, if that is what you would like to do, the plat that we have here in this -- this plat would be approved. This plat is compliant with the design modification being granted. So the two plats that would potentially be presented to City Council would be this plat, which is what the applicant would like to have approved, and the other plat would show in that southeast corner a 30-foot corner truncation, which is what your denial of the design adjustment would require. Council can choose one or the other.

MS. LOE: Okay.

MR. STRODTMAN: Mr. MacMann, did you have a question still?

MR. MACMANN: Just a real quick statement. Just if we do kick it back to you all and you have administrative procedure that you will want to follow through, I just wanted to express that I would like truncated corners on redevelopment, so however we can work that out.

MR. ZENNER: And that I can -- that we could probably --

MR. MACMANN: Because I'm imagining this is fine now. Say someone buys it and we're ten-story right here, aren't we? We're in the ten-story area right there?

MR. ZENNER: No. I believe the --

MR. MACMANN: Well, just -- just -- okay.

MR. ZENNER: Just out of it --

MR. MACMANN: Well, I just -- a corner like this where suddenly it's ten stories, you just can't have. That's too much building to have on a corner.

MR. ZENNER: And we may be able to -- and again those are the issues that we will bring up with our Public Works Director and deal with trying to create an --

MR. MACMANN: Your --

MR. ZENNER: -- administrative provision.

MR. MACMANN: Your thought, regardless of what we do, is that you guys go back and ponder that and then come back to us with something more workable so we can address this continually so -- so people like Mr. Rogers don't have this until we have a firm decision from Council.

MR. ZENNER: Exactly correct.

MR. MACMANN: All right. That's where I was going. That's where I was --

MR. STRODTMAN: Ms. Loe?

MS. LOE: I would like to make a motion to approve the Athens Subdivision Plat 1 without the design adjustment. Do I need to do that in two motions or can I do that as one?

MR. ZENNER: Separate. It needs to be two separate, if you would please.

MS. LOE: So, not approve --

MR. ZENNER: I think you need to take the --

MS. LOE: -- move to not approve the design adjustment first?

MR. ZENNER: To deny the design adjustment as requested.

MS. RUSHING: Second.

MS. LOE: Well, wait. Wait. Wait. So I move in Case 17-216, Athens Subdivision Plat 1, move to not approve the design adjustment.

MS. RUSHING: Second.

MR. STRODTMAN: Okay. Ms. Loe has made a motion to deny the -- I lost my words -- the design criteria, and has been seconded by Ms. Rushing. Is there any additional discussion needed on this motion? I see none. Roll call, please, Ms. Burns.

Roll Call Vote (Voting "yes" is to deny approval.) Voting Yes: Ms. Rushing, Ms. Russell, Mr. Toohey, Ms. Burns, Ms. Loe, Mr. MacMann. Voting No: Mr. Stanton, Mr. Strodtman. Motion carries 6-2.

MS. BURNS: Six to two, motion carries.

MR. STRODTMAN: Thank you. Planning and Zoning's recommendation for denial of a design adjustment will be forwarded to City Council for their consideration. Do we have a motion or discussion on the plat? Ms. Loe?

MS. LOE: In the case of 17-216, Athens Subdivision Plat 1, move to approve the Athens Subdivision Plat 1 without -- with -- provided it includes a truncated corner per UDC requirements. Is that sufficient?

MR. ZENNER: Prior to forwarding --

MS. LOE: Prior to --

MR. ZENNER: Prior to forwarding to City Council.

MS. LOE: Prior to forwarding to City Council.

MS. RUSHING: Second.

MR. STRODTMAN: Thank you. We have a motion on the table made by Ms. Loe on approval of the Plat 1, and we have a second by Ms. Rushing. Is there additional discussion needed on this motion? I see none. Ms. Burns, when you're ready.

MS. BURNS: Yes.

Roll Call Vote (Voting "yes" is to recommend approval.) Voting Yes: Ms. Rushing, Ms. Russell, Mr. Toohey, Ms. Burns, Ms. Loe, Mr. MacMann, Mr. Stanton, Mr. Strodtman. Motion carries 8-0.

MS. BURNS: Eight to zero, motion carries.

MR. STRODTMAN: Thank you. The Planning and Zoning recommendation for approval of the Plat 1 will be forwarded to City Council for their consideration.