

EXCERPTS
PLANNING AND ZONING COMMISSION MEETING
MAY 18, 2017

MR. STRODTMAN: Moving on to our first public hearing of the evening. At this time, I would ask any Commissioner who has had any ex parte communications prior to this meeting related to Case 17-113, please disclose that now so all Commissioners have the same information to consider on behalf of this case in front of us. Ms. Loe?

MS. LOE: Yes. I would just like to share that I know people that live in Old Hawthorne, so I happened to ask a friend just about where people park, and he said that they had gotten a memo recently from the community -- the general manager of the community, and he offered to share that with me, which he did. So I just wanted to put that on the table. And it did cover -- it had a point on parking in the street, and it was just reminding the community that automobiles should be parked in the driveway or garage. Guests can park in the street for short-term, but long-term street parking may lead to vehicle being towed, and that recreational vehicles have to be parked in the garages. And then on sidewalks, if you own a lot that is kept for green space and will not be built on, it's your responsibility to have a sidewalk installed, so just wanted to share those points.

MR. STRODTMAN: And that was the general manager of the Old Hawthorne?

MS. LOE: Of the Club at Old Hawthorne. Correct.

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

MR. MACMANN: This is kind of new ground for us, but can I ask a follow-up question on that?

MR. STRODTMAN: New ground for me, too, so, yes.

MR. MACMANN: Okay. Commissioner Loe, this is an HOA? Is that what this is coming from? This general manager is the manager of an HOA; is that -- what's the authority that this person has? This is not a City regulation. I'm assuming this is a --

MS. LOE: It's addressed to "Dear Resident: The community of Old Hawthorne first want to welcome new residents," so, yes. I'm assuming it's the resident --

MR. MACMANN: So this is a compact that they've entered into, that's -- that's where I'm going. Okay.

MR. STRODTMAN: Your assumption.

MR. MACMANN: I wanted to make sure I was on that page.

MS. LOE: There was a link within this to the walk -- walking policy on golf -- the golf court pads.

MR. STRODTMAN: For the actual golf course?

MS. LOE: Yes. Yes. Which I was interested since this is surrounded by those golf court pads, and that was going to be some of my questions, if the residents could use them.

MR. STRODTMAN: Thank you, Ms. Loe.

MS. LOE: That's public knowledge. Anyone could get to those links.

MR. STRODTMAN: Thank you. If there's no other additional disclosure.

A request by Columbia Civil Engineering Group (agent) on behalf of The Residences of Old Hawthorne, LLC (owner) for approval of a major amendment to the Residences of Old Hawthorne PD development plan to waive sidewalk construction. The 8.2-acres subject site is located along Residence Drive (private), east of Old Hawthorne Drive West.

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 major amendment to plat for "Residences of Old Hawthorne" PD Plan.

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

MR. MACMANN: Thank you. Planner Smith, I appreciate all these issues that you've raised because, as you were speaking, I was like how did we get here?

MR. SMITH: That's a fair question.

MR. MACMANN: I think -- I guess I would personally advise and, I hope, collectively, we would advise that all the issues that have manifested themselves here, and you've said we've addressed it -- we have addressed or are attempting to address move of them -- that we don't find ourselves in these situations anymore. I know that we'll see these coming forward, but I was, like, man -- (inaudible). I'm not -- I don't mean to be chewing on anything here. I was thinking with the fee in lieu of, there are no on that whole -- that's the northeast corner of that intersection, the Old Hawthorne?

MR. SMITH: Yes. Uh-huh.

MR. MACMANN: Anything across the road? Isn't the school down south of there -- the new school will go inside --

MR. SMITH: I think it is, yeah. The school is in The Vineyards project. I -- from my recollection, no improvements down there would necessarily be City funded, so they all will be fully funded --

MR. MACMANN: By the school district.

MR. SMITH: -- by the private development, by the school development, by the residential development, so there's no --

MR. MACMANN: In the -- and remind me again. I don't want to get too far off --

MR. SMITH: Uh-huh.

MR. MACMANN: -- off pace here. The school is everything past the creek, past the bridge; is that right? I'm sorry. It's just been a minute since I've been out --

MR. SMITH: That's detailed. I'm not sure if I can tell you off the top of my head if they do have requirements in place.

MR. MACMANN: I'm looking for a place for that money. That's what I'm -- for a sidewalk or something.

MR. SMITH: Okay. No. I appreciate that, yeah.

MR. MACMANN: Okay. That's -- thank you very much. Enough of my aside.

MR. STRODTMAN: Ms. Rushing, do you have a question?

MS. RUSHING: I think my question is along the same lines as to how we got here. Was the developer aware at the time this plan was made that sidewalks would be required or was that something that occurred to

them later?

MR. SMITH: No, absolutely. The sidewalks are shown in the plan. There was specific discussion at the initial approval stage of this on the design of -- of the terminus of the sidewalk. As you can see, it's a little bit out of the ordinary, so it was very clear the sidewalks would be required.

MR. STRODTMAN: Ms. Loe?

MS. LOE: I guess that's my question. The plan shows -- includes sidewalks. And I just wanted to clarify that the location of the street and the houses are where the plan shows. Correct? Okay. So it's not we've gotten backed into any situation, it's simply that the builder has now decided they don't want to follow the plan and build the sidewalks as shown.

MR. SMITH: I would say that's accurate.

MS. LOE: Thank you.

MR. HARDER: I would like to say something, too.

MR. STRODTMAN: Mr. Harder?

MR. HARDER: I noticed from the photos -- well, too, it looks like that they'll be blocked from vehicles. And so that's -- that -- I mean, that blocks the ability to use the sidewalks well, too. I kind of think that probably could have been established before things were built as well, too.

MR. STRODTMAN: Additional questions? Ms. Loe?

MS. LOE: This may be a question for the builder. I noticed on Trellis that the houses seem to be about the same distance back from the street -- Trellis Drive or Trellis Lane. And they have sidewalks against the curb. Trellis Lane.

MR. STRODTMAN: That's in the development?

MS. LOE: Yes.

MR. SMITH: You see that on the screen right now?

MS. LOE: Yes. To the left. No. Next one, right on the left edge. That -- yeah. Right there. So I was wondering, are those sidewalks not working out well or are they --

MR. SMITH: You know, I apologize. I think I did it -- I'm sorry. Not to cut you off. But I did address that. I touched on that briefly in the staff report, but I didn't in the -- in the verbal report here. We -- we did discuss having back-of-curb sidewalks instead of that setback with the green space. We did discuss that. Our site development team did have concerns that the installation of sidewalks, given that the driveways are already installed, could run into ADA compliance issues because the slopes were not necessarily planned for sidewalks. So there's two options, and that is an option is to require the sidewalks at the back of curb. One of two things would have to occur. The one would be the driveways would have to be removed and reconstructed to allow for ADA. However, we've been given guidance that since this is a private street, the sidewalks wouldn't necessarily have to meet ADA requirements in this location. So they could install sidewalks at the back of curb --

MS. LOE: Okay.

MR. SMITH: -- without it necessarily complying with the ADA.

MS. LOE: The Fair Housing Act doesn't apply because they're single-family homes?

MR. SMITH: I couldn't answer that.

MS. LOE: All right.

MR. STRODTMAN: Mr. MacMann?

MR. MACMANN: Let me follow up on something. If I understand, the original developer of this whole area has pretty much pieced this thing all out. Right? And there's -- we have multiple developers through different sections?

MR. SMITH: I think it's -- it's a piecemeal now of -- of developers, maybe different developer ownership groups --

MR. MACMANN: -- Was this --

MR. SMITH: -- but also builders, too.

MR. MACMANN: Okay. Let me ask this question. Does this owner/developer own any other property within the development?

MR. SMITH: I don't know if I can answer that. I know he doesn't own the immediate adjacent pieces here, but I couldn't tell you if he did own anything else. I think the ownership group here is specific maybe to this lot, and it's -- I'd probably defer to the applicant. He might be able to answer that better than I can.

MR. MACMANN: Okay.

MR. STRODTMAN: Mr. Smith, I've got a couple of questions. When -- when I was out there, I saw that there were no other -- I was just thinking if I was living out there and I wanted to play golf, how do I get to play golf? And so none of the homes have access to the golf course from the home side, you know, like from a John Deere garage kind of standpoint. So if I was to take my golf cart, I would the City -- the private street. Are those streets -- is that private street, is it the width -- I was not able to determine the width and I didn't measure it when I was out there. Is that a width of -- would that meet our public street width or do you know the width of that street - that private road?

MR. SMITH: The internal -- internal to this subject site or --

MR. STRODTMAN: I guess my question -- my question is, Mr. Smith, is could that road be used as the access of -- you know, they could walk on the road to go to play golf or go for a walk or walk their dog or -- I mean, the road is -- it felt like it was adequate enough. It felt right when I was out there. It didn't feel like I was missing a sidewalk. I mean, there weren't huge curbs and it seemed to be pretty friendly. So I guess I don't have a question as much as the road seemed like it was wide enough to maybe at some day be a public street, but it -- it won't be. It was built to a -- a good scale. I mean, it wasn't narrow or, you know, tight.

MR. SMITH: Yeah. I'm -- I'm assuming you're referring to the street that crosses in front of the clubhouse and loops and passes to the internal --

MR. STRODTMAN: Yeah. The -- the street that services this entire development --

MR. SMITH: Yeah.

MR. STRODTMAN: -- seems to be a decently built street that was wide and it has, you know, kind of slopes on the sides. It's not dramatic curbs. And almost like the street could be a place to walk where I typically wouldn't say that in most cases, but -- I mean, obviously, there's not going to be any more development around this for residential because it's a golf course, or at least not immediately. So the only place these people would be going would be going to the clubhouse or going for a walk because they're not going to be able to probably walk on the course unless they just hop on the trail and walk the walking path -- the cart path.

MS. LOE: No, you can't.

MR. STRODTMAN: So in the rules, you can't, so --

MS. LOE: No. Only before golf starts.

MR. STRODTMAN: So I guess I really don't have a question.

MR. SMITH: We asked the same question about the cart paths, but we were told that they do not have specific authority to access the cart paths for -- for walking access. I'm sure that might change if you're a member, per se, but that's -- that's the information that we have.

MR. STRODTMAN: Thank you. Commissioners, is there any additional questions for staff before we open the public hearing. I see none. We'll go ahead and open this public hearing.

PUBLIC HEARING OPENED

MR. STRODTMAN: If anyone is out there, come forward. Please give us your name and address.

MR. GEBHARDT: Good evening. My name is Jay Gebhardt. I'm the owner of A Civil Group here in Columbia. I'm here representing the Odles, basically, that did the original plan on this. You guys gave us a lot of good questions. I got involved in this about two weeks ago. Okay? I can't answer the question of why the sidewalks and driveways weren't built with the development, other than I think there was a lack of communication. And my experience is is that most people don't look at the plans we draw, so I don't know if that was the case here. Also, with a private street -- you know, a public street, the -- the City driveway approach, there's a standard for that and it creates a flat spot for the sidewalk and there's inspectors that come out and ensure all that's built according to oil, all that. And on a private street like this, there were no inspections of the driveway approaches, per se, so for that standard because there was no standard for that. So once the sidewalks were kind of forgotten or not communicated well, they just built the driveways straight from the garage out to the road. And -- and although Clint said we could build these at this back curb and their opinion was they wouldn't have to follow ADA, I believe what they're talking about is when you follow a street with the American Disabilities Act, you don't have to meet their slope standards, but your cross-slope standards still have to apply. So about two-thirds of these driveways are too steep, so you've got a little bit of sidewalk and then you've got a driveway to cross, and about two-thirds of them are just too steep. So that portion of it would mean ripping out the driveway and rebuilding it to create an ADA cross slope for that sidewalk. Also from these pictures, it doesn't show any utilities -- well, yeah, it does. In the very far background, there's -- there's transformers, there's mailboxes, there's all kinds of stuff that's in the way. They actually -- this Columbia Civil Engineering Group in catalyst actually, you know, tried to make this work and tried to figure out how they could zigzag a sidewalk through here and miss everything and that. And what it ended up doing was, you know, kind of obliterating the green space in the front of these because they're putting a five-foot sidewalk. That's 25 percent of the area of the front yard. And so that's why they pursued this variance, you know. The idea that -- you know, my idea when I first looked at this was like, well, the road it connects to doesn't have any sidewalks and there's never going to be any sidewalks there. So they're kind of sidewalks to nowhere. And I said, well, if I lived here, what would I do? I'd hop on the cart path and go up to the clubhouse where I'd go -- there's a swimming pool, use the cart path. I know you're not supposed to, because that's -- they'd have to kick me off. And I think as a practical means -- I think as practical means, I think there's quite a bit of interconnectivity. If you could back to that first shot -- view, Clint. When you look at those cart paths,

there's quite a bit of interconnectivity provided by them that, you know, luckily, out of sheer luck, we have that, at least. So I don't know if I can answer your questions, but I would be happy to answer any specific questions that I haven't touched on.

MR. STRODTMAN: Mr. MacMann?

MR. MACMANN: And this -- if you don't know, that's fine. I was wondering about the Fair Housing Act and ADA.

MR. GEBHARDT: Yes.

MR. MACMANN: Are they exempt?

MR. GEBHARDT: Single-family homes are exempt from --

MR. MACMANN: But is the road exempt? That's -- the road is not --

MR. GEBHARDT: The road is -- the road is not, but when you build parallel to a road -- so, like, in the City of Columbia, you can build a road that's 10 percent up and down.

MR. MACMANN: Uh-huh.

MR. GEBHARDT: And as long as you follow parallel to the road and it's in the right-of-way of the road, you can be at 10 percent even though that violates the 5 percent.

MR. MACMANN: Because you're following the road?

MR. GEBHARDT: Because you're following the road. So longitudinally you're good. It's the cross slope that goes -- that becomes a problem. And the way they built these eight -- or four-plexes is that two -- two units are here and there's step down, two units here, and the road goes like this.

MR. MACMANN: Uh-huh.

MR. GEBHARDT: So the first driveway is dead flat and the next one is too steep. And then they drop down two feet and that one is still flat and --

MR. MACMANN: Repeat the same process over and over.

MR. GEBHARDT: Yeah. Over and over and over. And then when you get down toward the cul-de-sac, all of them are too steep. You know, all four of them are too steep, and that's why I said it was about two-thirds. I went out with a level and walked around and tried to figure out which ones could work and which ones could --

MR. MACMANN: There's no engineering -- I take it from your presentation and Planner Smith's presentation, there's no real good solution here?

MR. GEBHARDT: No. And, you know, my client is at fault. There was -- there -- all these occupancy permits, except for the last eight, were issued and this wasn't found out. If it had been found out at the first, you know --

MR. MACMANN: But all these units have their COs? Everything that's up has a CO?

MR. GEBHARDT: All but eight. I think all but eight of them. So right now there is a bond that's been put up for the sidewalk and --

MR. MACMANN: Okay. And that's -- your client's --

MR. GEBHARDT: And they're going to get their last eight COs because of that bond. But it's a -- you know, it's kind of like -- excuse my language -- but it's kind of an oh, shit moment and what do you --

MR. MACMANN: It sounds like it, yes --

MR. GEBHARDT: And it's so far down the road that it's kind of hard to back up this far.

MR. MACMANN: I would -- if I understand Planner Smith correctly, and I don't mean to put words in your mouth, your clients are still willing to pay a fee in lieu of, but we haven't figured out how that'll work. Is that my understanding?

MR. GEBHARDT: I think they would prefer not to.

MR. MACMANN: I -- yeah. I would understand that, yeah.

MR. GEBHARDT: And I think -- your question about the east elementary school, it is in The Vineyards, and The Vineyards is down Rollingwood, but it's across the creek --

MR. MACMANN: Uh-huh.

MR. GEBHARDT: -- and there's plats -- Plats 1 and Plats 2. And then for whatever reason, Columbia Public Schools put the east elementary school off of Rollingwood, and there's Plat 5 or 6 in front of it, so it's quite a ways --

MR. MACMANN: It is, and I was working out there and I was just wondering exactly where that school -- I was trying to build a sidewalk somewhere --

MR. GEBHARDT: It's really in the middle of the property and not near Rollingwood.

MR. MACMANN: I -- I still have -- I'm done for right now, but I still have concerns. Thank you.

MR. STRODTMAN: Yes. Ms. Burns?

MS. BURNS: So was it the occupancy permits that triggered this request?

MR. GEBHARDT: I think that's -- Clint, can you help me with that?

MR. SMITH: Yeah, I'd be happy to. And I'll -- I'll be upfront. I mean, the -- I think there is fair enough fault to go around here. Typically, the way it would have worked is that a CO wouldn't have been issued until the buildings were inspected and found to be complete and accurate with the approved plans, but somehow sidewalks were not caught when the first amount of COs were issued. So it was caught when we go close to the end, and that's the point when this was brought to our attention. We had them halt construction or at least halt issuing of any COs until this was established, although we did reach an agreement with a letter of credit to accommodate them to finish out their COs. So that's -- that's the kind of down and dirty details on -- on everything that occurred. So that's where it is -- that's where it stands right now, but, yeah.

MS. BURNS: Okay. Thank you. I -- yeah. This, to me, is -- you know, we're granting a variance for a sidewalk that was never constructed in the beginning that was on the plan and was expected to be constructed. Yet it wasn't caught by anybody through inspections or whatever. I just -- it -- I'm uncomfortable voting for this because it makes me others will think, well, gee, maybe I won't build a sidewalk.

MR. SMITH: Like I say, this issue was discussed with our site development team, and they were surprised that that also was overlooked. So they -- I think they are well aware that this is an issue that they need to pay more attention to and I'm quite certain that they will do so in the future. So these types of developments with these private streets are not that common, but development plans are common and sidewalks are on the development plan, so we -- we're working with them a little closer now to make sure that that's something that they're well aware of and -- and will take extra care of in the future.

MS. BURNS: Thank you.

MR. STRODTMAN: Mr. Harder?

MR. HARDER: Yes. Do residents that own these homes, do they get an automatic membership to Old Hawthorne and, if so, can they -- they don't. Okay.

MR. GEBHARDT: No, they don't. Rusty, to answer your questions, they're 28-foot streets, which is what a City residential street would be, so the same width.

MR. STRODTMAN: Thank you.

MR. GEBHARDT: I grew up in Rothwell Heights, and there are no sidewalks, and everybody walks in the streets, and it's -- it seems fine to me, I mean, because I grew up that way. It's -- it slows traffic down and people are a lot more friendlier.

MR. STRODTMAN: You're a big man.

MR. GEBHARDT: I wasn't then. I was a little kid.

MS. BURNS: Maybe the developer can issue orange vests to all the residents.

MR. GEBHARDT: That would be good.

MR. STRODTMAN: Yes, Ms. Loe?

MS. LOE: I'd like to say I work -- live in -- in closer in town community that was built without sidewalks and just got a sidewalk built on one of the streets after many, many years of petitioning and waiting, and it's a long struggle. And I -- I know families that moved off of the street because it didn't have a sidewalk and they had kids having to get to school. So this seems so counterintuitive to be building a new residential street without a sidewalk in this day and age.

MR. GEBHARDT: I understand. And it is a strange and unfortunate deal that I'm even here asking for it.

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

MR. GEBHARDT: Thank you.

MR. STRODTMAN: Any additional speakers in the group?

MR. GALLOWAY: I'm Ben Galloway; 1304 Stablestone Lane at the -- in Old Hawthorne, and lived in Old Hawthorne since 2008. My wife, Nancy, and I have the develop-- On the Ninth, directly to the east of this development. We can probably pinpoint that on the -- on the map. I'm glad I'm not in your chairs because this is a very difficult situation to look at, but I'm here. I'll answer questions if I can help. I play golf at Old Hawthorne, so I'm very familiar with the neighborhood and what goes on out there. But the On the Ninth development, it was constructed according to the original plan and -- and I guess I know the Odles and I'm sorry they're in this situation, but it was something I think, you know, should have been addressed, you know, during the construction phase and -- and caught during the -- before the COs were -- were authorized or whatever. Somebody brought up the point of Bower Lane and Trellis, which is to the east of our property on the other side of Old Hawthorne West, and -- I'm sorry -- to the west of our property. Our property is to the west of -- I think I might have confused you on that. I got my directions mixed up, but -- but the development there on Trellis and Bower, the sidewalk that connects to the curb and, of course, the curb to the street, you know, seems like a logical solution for, you know, higher density the areas like this. The residences is pretty high density. I mean, they're three bedroom -- four-unit buildings, three bedrooms. Our property is much more relaxed. That was just the design that we wanted and -- and they're two-bedroom units and have sidewalks and, you know, it's -- of course, they're connected into other sidewalks at the -- at the -- through the community. But anyway I'm just here. Be happy to provide any

other information or answer questions. I'm -- like I said, I've lived there almost ten years and -- and play golf. There was one point about the cart paths being an alternative to sidewalks. I'll go on record and say that's not the case, that you cannot walk on the cart paths during golf play because you can imagine the liability issues with golf balls flying in the air. So just wanted to clarify that, that that's not permitted to walk on the cart paths.

MR. STRODTMAN: I've got a question, Mr. Galloway. Have you seen anybody walk out of this residence or walk around it or in it, or have you experienced how they walk in --

MR. GALLOWAY: Well, the only way they could get out of the part would be to walk up the street because the cart paths come around each side of the residences, so that would be their only way to get to the clubhouse or fitness center or swimming pool would be --

MR. STRODTMAN: Have you noticed any problems with that or heard concerns from other citizens in your neighborhood or --

MR. GALLOWAY: The only -- there are other issues. There are other questions about sidewalks. There's some have mentioned that other people that live to the north of the residences will cut up through the golf course and cut up through the residences to get just a shortcut, you know, but that's the only thing I've heard mentioned. I don't really know the -- any of the people that live at the residences or what their -- their patterns are.

MR. STRODTMAN: Just curious if you had seen anything. Commissioners, any additional questions for this speaker? Thank you, Mr. Galloway. Appreciate you coming tonight. Any additional speakers this evening? I see none. We'll go ahead and close the public hearing.

PUBLIC HEARING CLOSED

MR. STRODTMAN: Commissioners, discussion? Questions? Mr. Stanton?

MR. STANTON: Shame on the builder. They -- this is not good. I was looking at Google Maps and I'm looking at the infrastructure in place already before the buildings were built and I felt there was ample opportunity to make a curb -- back of a curb sidewalk. Staff made it very clear that this probably won't happen again. I think we're kind of -- I mean, everything in my gut is telling them to go ahead and bust those driveways up and make proper sidewalks and do all of that. Being in construction, I know that really wouldn't be practical and all of that. They got one off on this one. I think that this -- the shame on the builder right here for this one. I'm confident that -- that the future codes and the things we have in place now will prevent this from happening. Unless we just do some major stuff, I don't know if that would be practical for this. I would be willing to let them get away with this one.

MR. STRODTMAN: Ms. Loe?

MS. LOE: I'm not convinced ADA does apply to this in that it's a private street. It's not a place of public accommodation or public business. So -- and that's when ADA applies, Title II. And it's not a public -- it's not a state or municipal government, which would be Title III. Uh-huh. Sure.

MR. STRODTMAN: Just give us your name and address again.

MR. GEBHARDT: My name is Jay Gebhardt; 3401 Broadway Business Park. I would love to have you on my team because we -- we even fight this in parking lots all the time, but we have to provide not only ADA from

the parking -- handicapped parking space, but we have to provide ADA from a path from the road to the public street.

MS. LOE: It's usually tied to the money or the use, and there's no public use here or commercial. Do we agree on that?

MR. GEBHARDT: Yeah. I guess you define -- it is how you define --

MS. LOE: It's private homes and a private street. So then it would be funding. Is there federal, state, public funding involved? Right. So I think we may be outside of ADA requirements.

MR. GEBHARDT: That's good. One thing I wanted to say, too. Just a consideration. When you build at the back of curb, these are roll-back curbs.

MS. LOE: Uh-huh.

MR. GEBHARDT: They're not barrier curbs.

MS. LOE: Uh-huh.

MR. GEBHARDT: And people tend to park up on the sidewalk when you do that.

MS. LOE: Uh-huh.

MR. STRODTMAN: No barrier.

MR. GEBHARDT: Yeah. So that's just something else to think about.

MS. LOE: Could we -- right. I mean, could we come to some compromise? I realize we have some utilities and some mailboxes and maybe we can't get a full five-foot-wide in there, but could we do a four-foot back of curb or is there something -- and if we can confirm that ADA doesn't apply so we're crossing the driveways as is?

MR. GEBHARDT: Right. It would probably be easier to build these between the -- you know, between what, in this picture, the landscape bed and the -- and the mailbox.

MS. LOE: You pull them back.

MR. GEBHARDT: We can't put the mailbox anywhere different because the mailman has got to reach it.

MS. LOE: Oh.

MR. GEBHARDT: And so, if we put in the back of curb, then the mailbox is right in the middle of the --

MS. LOE: What -- what do they do on Trellis? I notice they had little bump-outs.

MR. GEBHARDT: Have them pull around that.

MS. LOE: They just have little bump-outs for the mailboxes or something.

MR. GEBHARDT: Yeah. So you -- but there's so little space here. I did Trellis, so --

MS. LOE: Okay. Is there more space on Trellis?

MR. GEBHARDT: Yeah. Those are 60-foot lots and these are --

MS. LOE: Are those houses put back --

MR. GEBHARDT: -- these buildings are about 25, 30 feet wide.

MS. LOE: Okay.

MR. GEBHARDT: You've got a 16-foot-wide driveway and about a 30-foot-wide unit. Thirty, I think, is the width -- maximum width of the unit. So quite a bit smaller space to work with. I'm sorry. But I may give you a call on this ADA stuff, because if we're not required to do it --

MR. STRODTMAN: We were just researching -- what is the street name -- Trellis?

MR. STANTON: Trellis.

MR. STRODTMAN: It doesn't look like there's any mailboxes. There's -- the pop-outs look to be addressing light poles, but on Google, we don't -- it doesn't seem -- we don't see any mailboxes, so they may not - they may have a central bank or something to address that -- that concern.

MS. LOE: Okay. All right.

MR. STRODTMAN: The pop-outs look to be addressing light poles -- street poles. Ms. Russell?

MS. RUSSELL: I want to echo Mr. Stanton's frustration. I mean, it is shame on the builder, shame on not getting it caught sooner. I'm -- I'm wondering when we're really going to enforce the sidewalk variance. It just seems like we're always granting them, but this seems like a bridge too far. And -- and if it got approved, I'd like to approve it with a caveat that people need to pay attention because we're not going to approve them again. Just -- I won't vote for it again.

MS. LOE: We have a complete street ordinance in the City, and this is not a complete street.

So --

MS. RUSSELL: True.

MR. ZENNER: Well, that is -- that, Ms. Loe, applies to a public street. It does not apply to a private street.

MR. GEBHARDT: Private street.

MS. LOE: All right.

MR. ZENNER: And we do not have private street standards. So what I would suggest to you in order to make resolution of this issue, I think to Ms. Russell's point, so sidewalk variances or what we would refer to them now as modifications are, I would suggest you propose a private street standard that requires a sidewalk and that requires a specific dimensional standard so we can include it within that platted common lot which is what a requirement is for a private street. That would be the way to address this holistically for the future. If this particular project, hindsight being 20-20, had been more thoroughly possibly designed with the future elevations of finished floors with these structures understood at the time that this development plan was presented, the applicant likely would have made at that time a request to have had a waiver from the sidewalk realizing that the situation we are at right now was inevitable. Unfortunately, they did not in the haste of trying to get this project approved, if I recall correctly, they decided to put the sidewalk in and determine through elevations afterward, after construction had been commenced, in fact the sidewalks couldn't be installed. Unbeknownst to us, we issued occupancy permits further compounding the problem of not addressing it at the very beginning by coming back and saying we completed our engineering, we determined we couldn't build the sidewalks. We want relief now. At that point, we would have been in a better position to say no. Redesign your layout to accommodate the sidewalk. We did not, unfortunately. That is part of the problem we have had with planned developments to where you can get entitled. You do not have to submit full engineering drawings at the time of that entitlement, not even with a planned development plan did you have to have full design drawings. Some of those issues obviously have been addressed through out Unified Development Code. Others have been addressed through changes within our internal process. I can fairly confidently speak to you that this particular situation will likely not be reproduced in the future. It may not be able to be caught from an engineering perspective because design still is not required to be a 100 percent complete at the time of a planned district approval, but it definitely will be

addressed as part of our plan review. It's a 44-lot development. It is sandwiched back in between two fairways. It does have a 28-foot-wide compliant public street standard width which would allow parking on one side, if I recall correctly. However, given the nature of how this development is with the limited number of residences in it, they're probably parking in their drives or in their garages. I realize this is an awkward position for all of us to be in. Yes, it's fault to be thrown around to a variety of bodies -- developer, City. Unfortunately, putting a sidewalk in or requiring it to be put in here, I believe, is not optimal. I think it creates a lesser development as a result, and I think we have means by which the Planning Commission, understanding this problem, can potentially hopefully alleviate that in the future by recommending a standard. And I think we, as planners, have always identified the fact that it's an anomaly and an oddity that we do not have a private street standard. Even though it is not used that frequently, we don't have one, and we have expressed a concern at least with our -- our associates that we deal with within in our building and site development and our engineering division that we probably need one. We just have never had the impetus to get one designed. This is the impetus for that design of a private street standard, and I think that that would resolve the matter. While I think begrudgingly giving maybe the applicant the -- the benefit of the doubt, that they should have known better, but I think we do have ability to be able to deal with it comprehensively in the future.

MR. STRODTMAN: Thank you, Mr. Zenner. Commissioners, any additional questions for this speaker? Thank you, Mr. Gebhardt.

MR. GEBHARDT: Thank you.

MR. STRODTMAN: Commissioners? Mr. MacMann, did you have your hand up?

MR. MACMANN: I -- just a -- a brief comment. I'm with Commissioner Stanton here. We're not going to rip those driveways out. It's just -- it's -- there's not enough space. I would suggest to staff and I hope my fellow Commissioners feel similarly. Although we seem to have run into this issue, we're going to be very cognizant of street standards and sidewalks, we're going to run into other things in the future, and we might want to flesh out a fee in lieu of policy when we run into this stuff, particularly as we expand to the west or the east. We're going to run into -- there's no community amenities anywhere, what do we do with this money? And maybe if we had a policy or procedure what to do with that, how to address this type of thing. That's all. Thanks.

MR. STRODTMAN: Mr. Stanton?

MR. STANTON: Well, if I've heard Mr. Zenner correctly, can we -- is this another -- is this another discussion as far as the private road standards? We don't have to put this in this -- or in this case right now?

MR. STRODTMAN: Future.

MR. STANTON: That needs to be a work session issue or something like that that we need to discuss and get that on the road?

MR. ZENNER: That would be correct. If that's the prerogative of the Commission, if you would like to go there --

MR. STANTON: All right.

MR. ZENNER: -- we'll be more than happy to get our traffic engineering folks at a work session to discuss that in greater detail.

MR. STANTON: Okay.

MR. STRODTMAN: Ms. Rushing?

MS. RUSHING: I'm like other members of the Commission. My frustration that sidewalks weren't built here and that somehow someone is not going to suffer any penalty for not doing what they should have done. On the other hand, looking at all the photographs we've been shown, I don't see how it would be possible to put in sidewalks at this point in time. And I really wish there were a penalty that could be imposed other than requiring something that can't be done, but it just doesn't look like -- like they could do that -- put in sidewalks.

MR. STRODTMAN: I think also, Commissioners, the important thing to remember that this is a private street that's connected to a private street, surrounded by a golf course, private property. Probably more than likely will always maintain this configuration or look. I think even if it was surrounded by other homes, it would be a different discussion. And if it was, you know, a City street connected to it or even -- even a private street connected to a City street with sidewalks, we could have a different discussion. Or, you know, if there was residential on both sides, maybe there are some creative ways we could bring in some sidewalks from the back of these homes and connect it into the neighborhoods next to it, but we're next to a golf course, and we're not going to be able to put sidewalks on the golf course. So I think this is a pretty unique situation that hopefully we won't run into in the future. I think we do -- we do need to discuss the private road standards, and that would be something I would recommend for a future work study sessions is to discuss that so that we can keep this from happening in the future. And I also would like to reach out to the building and inspection department and I think that that's really where the -- you know, 50 percent of the blame belongs on the City for not catching this and 50 percent belongs on the builder for not catching it. So I think there's 100 percent blame between the two and I think we need to -- under the circumstances, I don't think a sidewalk makes any sense there, and it wouldn't look right, it wouldn't be functional, and I don't believe taking money from here and taking it miles down the road for a school is appropriate at this point either. So I'm willing to support it, the waiver, and we move on.

Mr. Stanton?

MR. STANTON: In Case 17-113, I move to -- I move to approve the measure amendment to the plat for residence at Old Hawthorne PD plan.

MS. RUSSELL: Second.

MR. STRODTMAN: Thank you, Mr. Stanton, for that motion. Ms. Russell, thank you for the second. Commissioners, we have a motion on the floor that has been -- has the proper second. Is there any discussion on this motion? I see none. Ms. Secretary, when you're ready.

MS. BURNS: Yes.

Roll Call Vote (Voting "yes" is to recommend approval.) Voting Yes: Ms. Russell, Ms. Burns, Ms. Loe, Mr. Harder, Mr. Stanton, Mr. Strodman, Ms. Rushing. Voting No: Mr. MacMann. Motion carries 7-0.

MS. BURNS: Seven to one, motion carries.