

**MINUTES**  
**BOARD OF ADJUSTMENT MEETING**  
**COLUMBIA CITY HALL COUNCIL CHAMBER**  
**701 EAST BROADWAY, COLUMBIA, MO**  
**OCTOBER 10, 2017**

**BOARD MEMBERS PRESENT**

**Mr. Philip Clithero**  
**Ms. Janet Hammen**  
**Mr. Fred Carroz**  
**Ms. Martha John**  
**Mr. Andy Waters**

**STAFF PRESENT**

**Mr. Pat Zenner**  
**Mr. Jose Caldera**

**I) CALL TO ORDER**

MR. CARROZ: The October 10th, 2017 Board of Adjustment meeting will come to order. Will the liaison please call the roll.

MR. ZENNER: Ms. Hammen?

MS. HAMMEN: Here.

MR. ZENNER: Mr. Carroz?

MR. CARROZ: Here.

MR. ZENNER: Ms. John?

MS. JOHN: Here.

MR. ZENNER: Mr. Waters?

MR. WATERS: Here.

MR. ZENNER: Mr. Clithero?

MR. CLITHERO: Here.

MR. ZENNER: Mr. Chairman, you have a quorum.

MR. CARROZ: Thank you, sir.

**II) APPROVAL OF AGENDA**

MR. CARROZ: A motion and a second for approval of the agenda?

MR. CLITHERO: So moved.

MR. CARROZ: May I have a second?

MS. JOHN: Second.

MS. HAMMEN: Second.

MR. CARROZ: The agenda is approved. All those in favor, say aye. All those opposed say nay.  
(Unanimous vote for approval.)

MR. CARROZ: Now we have an approved agenda.

**III) APPROVAL OF MINUTES**

MR. CARROZ: The September 12th, 2017 minutes were distributed to the Members of the Board. Are there any corrections or additions to the minutes? Ask for a motion for approval and a second.

MR. CLITHERO: Move to approve as submitted.

MR. CARROZ: A second for the --

MR. WATERS: Second.

MR. CARROZ: Okay. I have a second. All those in favor, say aye. All those opposed, say nay. (Unanimous vote for approval.)

MR. CARROZ: And we have approved minutes. Will the court reporter please swear in the staff. (Mr. Zenner sworn.)

#### **IV) PUBLIC HEARINGS**

##### **Case # 1952**

**A request by Westside Christian Church of Columbia Missouri, represented by Caleb Colbert (attorney), for a variance to permit parking within the required 25-foot front yard setback of R-1 zoned property which is not permitted per Section 29-4.3(g)(3)(v)(C) of the Unified Development Code. The subject site is located at the northeast corner of Forum and Nifong Boulevards and is addressed as 3900 Forum Boulevard.**

MR. CARROZ: All right. Has the notice been properly advertised?

MR. ZENNER: Yes, it has

MR. CARROZ: Has the property been posted with the notice of public hearing?

MR. ZENNER: Yes, it has.

MR. CARROZ: Have the parties in interest been notified?

MR. ZENNER: Yes, they have.

MR. CARROZ: Have there been any inquiries?

MR. ZENNER: No, there have not.

MR. CARROZ: Would the person making the application to the Board please come forward, state your name?

MS. LEWIS: Marjorie Lewis, an attorney in Columbia, Missouri with offices at 601 East Broadway, Suite 203.

(Ms. Lewis sworn.)

#### **PUBLIC HEARING OPENED**

MS. LEWIS: I'm here tonight instead of Caleb Colbert, representing the applicant. First, for an order of business, I want -- I would like to admit into evidence a copy of the notice of application to the Board of Adjustment with the attached denial letter, and the attached sheet of parties in interest, and the attached site plan. May that be admitted?

MR. CARROZ: Yes, it may.

MS. LEWIS: And I would like to introduce Tim Crocket, who is going to do the presentation tonight.

MR. CROCKETT: Tim Crockett, Crockett Engineering, 1000 West Nifong.

(Mr. Crockett sworn.)

MR. CROCKETT: Thank you. Before I get started, I'd like to submit for the record a copy of the presentation that is going to be presented tonight, if I may.

MR. CARROZ: You may.

MR. CROCKETT: Members of the Board, I'm here tonight representing Forum Christian Church, also known as Westside Christian Church. With me tonight, of course, Marjorie Lewis, legal counsel for the project, as well as Jim Abernathy and Carl Holem, who are construction managers and members of the church. I would also like to state that not only do I represent the church as a -- as the engineer tonight, but I also a member of the church. I've been a member of the church for 25-plus years, and so the information I have tonight comes from personal experience and intimate knowledge of the site as well, so I'd like to put that out there.

Of course, a quick overview, the request tonight is for a variance to Section 29-4.3(g)(3)(v)(C) of the Unified Development Code, and it pertains to parking areas within a 25-foot setback for a residentially zoned parcel. Location map, we're on the northeast corner of Forum and Nifong. It's -- it's an existing church. It's been there for quite some time across the street from the new Boone Hospital Center and across the street from Walgreens as well.

To give you a little background, the church, formerly Westside Christian Church, was located over on West -- over on Ash Street around West Boulevard. In 1993, it moved to the corner of Forum and Nifong. Current attendance of the church is somewhere around about 1,200 people on any given Monday -- Sunday morning and growing rather steadily. And the site has been developed in several phases over the years and I'd like to talk about that a little bit.

In 1993, as you can see here, is the initial phase of the property. The yellow is the existing building that was the main sanctuary, classrooms, offices, and the blue was the main parking lot. In the late 90s, it did a couple of additions. It did a building addition for additional classrooms, again, additional offices, a gymnasium and parking lot addition, as shown in blue -- a couple of them at that location.

Third phase, it happened a couple of years ago, it was for the main lobby addition. It's mainly meeting space -- just a lobby addition to the building. Now in 2017 is the fourth phase of the development. It has a gymnasium reconfiguration, again, additional classrooms for the growing congregation, storm water detention, which is important because none of the site had detention up until this point, office addition, and then additional parking lot. That additional parking lot is what we're here for tonight.

Seen on this slide here, this is the proposed parking lot on Forum Boulevard. The blue line as shown there is the 25-foot setback along Forum Boulevard. The section that's -- that is in question tonight, again, Section 29-4.3(g)(3)(v)(C) states parking spaces for all other uses in residential districts shall not be located in the required front or side yard. I'm going to give a little history on that or a little bit more background to it for all other uses. Basically what that section is saying that in an R-1 district -- excuse me -- in an R-1 district other than residential cannot be located in the 25-foot setback.

And what are those other uses in a residential district? Mainly, it would be a school or a church such as this. So they're saying we need to put that parking lot further back off the 25-foot building line. Here's the issue. Those trees right there are in jeopardy if we move the parking lot closer into the development. Now, those trees are mature trees; some of them have been there for 20-plus years.

They are mature Pin Oaks, relatively large trees. You can see them here. Thirty-five to forty-five foot tall, mature -- they screen the parking lot and they shade the parking lot. Here's a couple of other pictures. This is the row of trees that would be eliminated if the parking lot was moved back further into the property.

These are two rows of parking. Both of these -- while very similar, they are side-by-side rows of parking. You can see the church has planted those trees a long time ago. They pride themselves on the fact that the rows of parking are separated by about 30-foot of green space. We don't have a large sea of parking like many churches or other places do in town.

We have rows of green space. They've planted these trees, and it is -- you know, it is very aesthetically pleasing to the site. So a variance request tonight. Granting a variance would allow the proposed parking lot to be constructed within the 25-foot setback line, which is common to many developments.

If it is zoned commercial or office, that happens quite often. It's just -- in this particular instance that it would be not allowed. Granting a variance tonight would preserve the existing mature trees. We think that is important for development of itself -- or the site of itself. Granting a variance tonight would require substantial landscaping screening to be installed along Forum Boulevard. Now that's a key issue as well -- required substantial landscaping or screening to be installed along Forum Boulevard.

Here's the proposed plan. As you see here, this is the proposed parking lot. You can see the setback line, and you can see the trees that we would preserve. Now then, by regulation if the parking lot is with -- over that 25-foot line or within the 25-foot line, we would have to add screening and landscaping to buffer the parking lot from adjacent Forum Boulevard. If we stay at 25 foot or if we are pushed or denied from that, we're pushed back 25 feet, and we don't have to provide that landscaping.

So that brings to what happens if we get denied tonight. A denial of the variance would cause the proposed parking lot to be moved further east. It would cause the existing trees to be removed and would create a situation where no street side landscaping or screening would be required along the parking lot. This is the alternative. You can see the trees have been removed and you can see there is no landscaping out there.

Now the distances that we have out there is about from the back of curb from Forum Boulevard to the -- excuse me -- to the parking lot as proposed is about 40 feet. So we're not right up on the road. We are substantially further back. We're about 40 feet away. But if we were pushed out even further, we'd be 55 feet. So it's not that we're asking to be eight, ten, twelve feet off of Forum Boulevard, we're asking can we go to 40 feet.

This is option B. Again, those trees get completely eliminated, which is something that the church

does not want to do. So additional information, parking within 25 foot to setback is common in other zonings. If it was zoned a commercial office, that's happened a, you know -- I know on a common -- common basis. Existing use of the property is not residential. Similar parking exists all around the site, and I'll show you right here. This -- again, here's a close up of a vicinity map.

You can see right across the street to Boone Hospital. A substantial portion of parking lot -- of their parking lot is within 25-foot setback. The Walgreens has parking with the setback. The apartments further to the northwest has drive lanes and parking within the 25-foot setback. The bank across the street was within 25 foot of the setback. The office complex catty-corner has parking within the 25-foot setback.

So by being where we want to go is not out of character with the area. The UDC, I would say, would say the R-1 is not an appropriate use at this location. I think if you look at the UDC, it would encourage this to be something more along the lines of -- of a commercial district. Now, if we were zoned commercial, we wouldn't have this issue. It's the -- it's our belief that is not the intent of the said section to eliminate parking in this -- in this particular instance.

It is my belief that Section 29-4.3(g)(3)(v)(C) basically states that no parking can be within the 25-foot setback when it is in a residential district, and I believe that's when it is embedded in a residential district, meaning you have residential uses across the street from you. When you have residential uses all the way around you -- in this case, we're at the corner of two arterial roadways. So I think if you look at the UDC, I think that would encourage us to be something more along the lines of M-C zoning, which we wouldn't have that -- that issue.

So in conclusion, enforcement of the current regulations imposes unnecessary hardship by the loss of trees. By granting a variance, the spirit of the UDC is still observed. I think that -- when I say the spirit, I mean that the intent in my view is that this -- this particular situation was not contemplated by the UDC. Now, of course, we can't write the UDC to cover all instances, but I think that this is a -- you know, the right venue to -- to voice those variances.

Denial of the variance would eliminate both being -- would not -- excuse me. Denial of the variance would eliminate both existing mature trees and the parking lot landscaping, and we believe that this variance is justified and appropriate at this location. Now, I don't want to take it as a threat. I mean, that's certainly not the case here. I'm not trying to see if you don't give us this, we're going to do this. The fact of the matter is the church is a growing church.

They have a growing body. It's been steadily increasing for quite some time. There -- you can see by the added classroom space, you know, added facilities, added parking, they are growing. They need the parking lot. So it's going to happen one way or another.

They do utilize the Boone Hospital Center facility south of the property. They have anywhere from 30 to 50, 60 cars over there on any given Sunday morning. However, when you have small children and you are crossing -- crossing Nifong at a signalized intersection, a lot of families don't like that. And so while we do push a lot of folks over there -- a lot of folks park there, and they do have a shuttle that goes back and forth -- we do need the facility -- the parking on site. So with that, I'm happy to answer any

questions that the Board may have.

MS. JOHN: I have one question. How far is the greatest amount of encroachment into the setback?

MR. CROCKETT: Let's go back here.

MS. JOHN: It looks like it might be right about 20 feet from --

MR. CROCKETT: It's about 15. Ms. John, it's about 15 feet at the worst case. You can see it's not the entire length.

MS. JOHN: Not -- yeah.

MR. CROCKETT: But it's about 15 feet.

MS. JOHN: About 15 feet?

MR. CROCKETT: Right. We have about a ten-foot buffer -- eight- to ten-foot buffer between the property line and -- you know, I'd say eight foot. You know, let's be conservative -- be -- make sure we cover it. But I'd say it's eight foot at the -- at the peak from the property line to the parking lot itself, which normally --

MS. JOHN: Yeah. Okay.

MR. CROCKETT: -- six -- six feet would be the limit, and --

MS. JOHN: Sixteen?

MR. CROCKETT: Six -- excuse me, six feet would be the limit in normal instances, and what we're asking for is we'd exceed that --

MS. JOHN: Right. Okay.

MR. CROCKETT: -- and still have street trees and landscaping included in there.

MS. JOHN: So you're asking to encroach a maximum of 15 feet into the required setback?

MR. CLITHERO: I'd go a little more than that. I don't know how closely a scale this is, but that blue line is about at the back of the --

MS. JOHN: Yeah. There's a little bit of --

MR. CLITHERO: -- parking lines.

MS. JOHN: -- a little bit of those lines poking out, but not much.

MR. CLITHERO: That's going to be 18 feet to the back of --

MR. CROCKETT: Yeah. I would --

MR. CLITHERO: -- those lines.

MR. CROCKETT: -- say given eight feet, so I would say let's go, if we could do 18 feet --

MR. CLITHERO: Eighteen.

MR. CROCKETT: -- that would --

MS. JOHN: Eighteen?

MR. CROCKETT: Yes. That would cover us.

MS. JOHN: Thank you.

MS. HAMMEN: I have a -- a question. What's the distance between the two driveways, the

entrance and the exit?

MR. CROCKETT: Jesse, do you know off the top of your head on that?

UNIDENTIFIED SPEAKER: Two hundred fifty feet.

MR. CROCKETT: Ms. Hammen, I would say it was probably 250 to 300 feet. The way the church is set up, the way it is configured with the internal parking, the entrance to the south is the entrance, and the entrance on the north side is the exit. So folks come in, they go to the parking and they have a counter-clockwise circulation entering and leaving the site, so when you leave the site, you're furthest away from the intersection.

MS. HAMMEN: The -- the shared parking agreement with Boone Hospital is just for during your construction?

MR. CROCKETT: No, I -

MS. HAMMEN: Towards a permanent --

MR. CROCKETT: I'm not sure what the -- what the specifics of that are. It may just be verbal. Anyway, it can be taken away at any time. So, you know, why we're very appreciative of that, we want to be very -- you know, very respectful of if as well.

MS. HAMMEN: Do you know the Columbia Imagined that citizens help put together talks about shared parking as an ideal way --

MR. CROCKETT: Right.

MS. HAMMEN: -- of cutting down asphalt.

MS. JOHN: Yeah.

MR. CROCKETT: Right. And we've -- we've done that.

MS. JOHN: Well, if you're not crossing Nifong Boulevard --

MR. CROCKETT: Exactly. We've done that numerous times with regard to banks. Banks are a good opportunity for evening time and, you know, other off-hour uses to utilize bank parking. We've done that in other locations, but it's when we have lots side by side and they basically share, you know, parking facilities. When we're crossing a major roadway, it's less than ideal, especially with small children.

MS. HAMMEN: Okay. And it's mostly on Sundays we're -- Sunday mornings --

MS. JOHN: Right.

MS. HAMMEN: -- we're talking about. Right?

MR. CROCKETT: That is correct. Yes, ma'am.

MS. JOHN: Right.

MR. CROCKETT: Now, what I would like to also add that, you know, this facility also -- also has the farmer's market -- I believe it is on Thursdays in this facility. What this also provides, as you know if you've walked by the site or seen the site, it kind of sits back a little bit. What this also provides is the opportunity that the farmer's market could be sent out more of a prominent location along Forum Boulevard, you know, and get better visibility and better usage from the residents in the area.

MS. HAMMEN: So there is another landscaping chart that was given with our materials.

MR. CROCKETT: Yes.

MS. JOHN: That one?

MS. HAMMEN: That shows -- no, not that one. That shows parking in-between the trees.

MR. CROCKETT: Yes.

MS. HAMMEN: And it said that 19 spaces would be lost if it --

MS. JOHN: At least.

MS. HAMMEN: -- these were -- it stated 19 spaces --

MS. JOHN: Yeah. I'm just looking --

MS. HAMMEN: I'm just telling you what it said.

MS. JOHN: Go on.

MS. HAMMEN: Nineteen spaces -- thank you -- would be lost if it were -- if that was adhered to.

MR. CROCKETT: Uh-huh.

MS. HAMMEN: But it would be a way to save the trees.

MR. CROCKETT: That was a -- that was an exhibit that was asked -- the staff asked us to present. The issue with that is that it doesn't make financial sense to be able to do that. You know, the 19 spaces are very valuable. They're extremely valuable. And so if we move that over, we're still in jeopardy. You can see by that sketch -- I don't have it with me or in my presentation, but you have a single space here or two spaces here. It's very -- it's not very economical to build parking lots and spaces in that configuration. Also, you're still pushing the limit on those drip lines of those trees, so you're still -- there's still no guarantee that those --

MS. JOHN: Likely, they would kill them.

MR. CROCKETT: -- trees are going to be preserved. Exactly right. And so while we would attempt to do -- you know, it could be done, the chances are some of those trees -- the majority of those trees may still die.

MS. HAMMEN: You know, in your diagram of the whole area, it is striking that the -- that the green space -- there's some in front of the other office buildings catty-corner from there, and that is a welcomed green space that would be done away with if you took out into the five-foot setback. I just wonder if it's to the church's advantage to do it, but what about the hundreds of people who drive by there?

MR. CROCKETT: Well, I look at it like this, Ms. Hammen, we're talking about 15 feet. Now, that may sound like a lot, but if we're talking about 15 feet with screening and landscaping adjacent to that, is that 15 feet worth the additional landscaping and the tree cover behind or is that -- what would be better would be pushing the parking lot back. A 15-foot visualization is basically from me to you. By changing that little bit, losing the screening, losing the landscaping and losing the trees behind it and opening up 120-foot depth of parking space, we believe that the screening, landscaping and the tree preservation benefits not only the church, but also the residents in the area, and everybody who drives up and down Forum Boulevard. We believe that that is, you know, much more pleasing than simply that short distance of parking. Yes, sir?



MR. WATERS: So just to clarify it, is the church's intent to build the -- actually install the landscaping that is proposed in the -- the plan if the variance is granted?

MR. CROCKETT: Absolutely. I mean, we would be required -- Mr. Waters, we would be required to do that diagram right there. That is a landscape plan that was submitted with our construction drawings. Those plans have been approved basically by the City with the exception that we are within the setback and we can't -- they can't issue a permit to that degree for the specific construction of that lot, but when we push over that building line, we would then be required -- you know, it's nothing that the -- this Board has to stipulate. We would be required by City regulation to screen and landscape that portion of the parking lot.

MR. WATERS: So the landscaping that is proposed would actually be better screening --

MR. CROCKETT: It would be --

MR. WATERS: -- than the parking lot that --

MR. CROCKETT: It would be required by other methods of the City.

MS. HAMMEN: And -- and are you required to do it even in the parts that are not encroaching the 25-foot setback --

MR. CROCKETT: If you look --

MS. HAMMEN: I see that it choose that, but --

MR. CROCKETT: If you look at that, there's not much area that is. No, we would not. Any area that is not within that 25-foot setback, we only have -- we do a percentage of what is within it, but anything that's beyond it, we would not. And by that diagram, you can see there's not much area that's, you know, outside of that 25 foot.

MS. HAMMEN: Well, it looks --

MS. JOHN: There's only two spaces that are not --

MR. CROCKETT: Correct.

MS. JOHN: -- entirely -- that are not partly outside.

MS. HAMMEN: And is this with an opacity achieved within five years or is that the --

MR. CROCKETT: I believe it's -- I -- I should know the regulation better. I think it's 50 percent of the length. We also have the street trees that we have to plant, and I think it's 80 percent within three or four growing seasons. I should know that better. I -- we deal with it every day, and I can't recall.

MS. JOHN: But It's -- it's a City ordinance that --

MR. CROCKETT: It's a City ordinance --

MS. JOHN: -- you will -- (inaudible).

MR. CROCKETT: -- for landscaping and screening when you have any -- any parking lot that's within 25 feet of a -- of a right-of-way.

(Multiple people talking simultaneously.)

MR. CARROZ: Basically screening the whole length.

MR. CROCKETT: Adding landscape. And by the time you add our screening plus our street trees

that are required, that's the diagram that we've come up with. That's the City requirement. Of course, if it goes back beyond 25 foot, then obviously that gets eliminated -- the requirement does.

MR. CARROZ: Any other questions from members of the Board?

MR. CROCKETT: Thank you.

MR. CARROZ: Thank you, sir. Anyone want -- anyone else wishing to speak in favor? Wishing to speak in opposition? Seeing none.

### **PUBLIC HEARING CLOSED**

MR. CARROZ: Comments of staff?

MR. ZENNER: Least I be stricken down as I walk out of the building this evening, I don't know if I want to make comments. Obviously, the application has come before you because it does not comply with our -- our requirements for encroachment within the 25-foot setback that is applicable to this R-1 zoned property. The arborist, as well as our plan reviewer, have reviewed the actual landscape plan that is submitted, which Mr. Crockett has left up here on the screen.

We have concluded that in fact the landscaping is actually in excess of what is required by our general landscaping standards for a commercial development in which this scenario would be permitted. There were a couple of concerns that were identified that some of the vegetation is actually forward of the property line, and that may have just been a depiction on the plan, but that would need to be pulled back, and we believe that the area that is between the face of the curb for the parking area that is proposed to encroach and the property line is more than adequate in order to redistribute landscaping that may encroach into the public right-of-way.

We want to ensure that all of that landscaping is on the private property, not within the public right-of-way. It will avoid the need for an -- a right-of-use permit from the City, first and foremost. Mr. Crockett is correct, this property is in a unique location in that it is at the intersection of two major roadways and it is not what you would generally consider typical of what the standard is meant to protect against. If this were in the midst of a residential development, commercial parking facilities like this, which often churches do have that tendency to operate more on a commercial basis, we would probably have a more significant concern and desire to ensure that the parking be pulled back to ensure that there is green space between the public right-of-way, and then ultimately the parking space.

Mr. Crockett is further correct in that if you do pull it back 25.01 feet from the property line, you are not required to put anything within the front. That is how the Code is written. We did increase the setback for parking areas from the public right-of-way through the adoption of the new UDC. I think there was an oversight that we have discovered post-adoption of the Code that stepped a little bit beyond what was anticipated.

A commercial office and industrial property is generally along most of our major corridors, and the application of this standard in all those scenarios would significantly alter the usability of a commercial tract of land or office or industrial for that matter. Administratively at this point, given the belief that there was an oversight in the drafting of the Code under administrative decision, the ability to be able to encroach for

those office, commercial and industrial parcels, as we have historically always allowed as long as you were maintaining the landscape standards that are now in the new Code, we would allow that to occur.

The unfortunate reality is this is an R-1 zoned property, and in the R-1 zoning district we do allow churches. We allow a variety of other things. It is not context sensitive. And I think what this application has brought forward is the need to identify a context sensitive component with our landscaping standards. The loss of the existing vegetation on the site is definitely something that our Arborist is concerned about.

We would much rather prefer to not lose the mature trees. We would prefer to not lose landscaping along the corridor, which will soften the parking lot. So from that aspect, we are in favor of -- from a staff perspective, after additional evaluation, we believe that this is meeting the intent, while not the black letter of the law. I need to point out to you, however, that we do have parking requirements within the Code. And with the adoption of the UDC, we do have a maximum parking requirement.

The site is currently overparked, and this is not something that Mr. Crockett brought up. It has been a discussion, however, that we have had in relationship to full disclosure, based on the fact that the calculation for a church is based upon seats. It is not based upon how many people come within a single car. Average, probably, attendance, as Mr. Crockett and I have talked and what I have personally seen where I attend is if you're lucky, two people. If you have a family, you may have four.

But the way that our parking ordinance is structured, it is structured based upon one parking space, I believe, for every four seats, and then it is an assembly use parking standard. In churches similar to this or similar to The Crossing or Woodcrest, that is woefully inadequate parking based upon the success of those institutions, and as a result, you've run into the potential where you're going to bump against the parking maximum. The site was developed prior to the parking maximum being implemented, which was part of the new UDC.

If I am correct, and the applicant and the agent can probably refer, if this application was actually processed or presented before the UDC was adopted in March, that parking maximum wouldn't apply. While I am stating that we have one, we are willing to not -- we are willing to look the other way as it relates to that. Now that may not be our position -- Mr. Caldera can tell you if that is possible or not to waive the application of that parking maximum. That may be a separate variance request that may be needed to exceed 200 percent.

That particular Board -- that is a Board action, actually. Once we exceed 200 percent of the maximum allowed, the Board needs to consider that, and the Board would be considering basically the exact same facts. What is being done to mitigate the impact of that increase in parking? The impact of the increase in parking is basically being mitigated by the retention and the enhancement of the existing landscaping along Forum Boulevard.

So would the outcome be significantly different? Other than the fact that we would be quoting a different Code section, potentially not, but that is the facts associated with what surrounds this application. It is -- that is a supplemental component, but the application did not ask for the waiver of the upper limit on the parking. They have asked for the waiver as it relates to the encroachment.

Our staff, within the building and site division, did not consider the total site's parking in its denial letter. It is only considering what was looked at here. As we began examining the actual application, it came to light that the 200 percent is exceeded. Again, while I don't like having to bring that statement up, it is factual as it relates to this particular application.

We are supportive, even though there is a violation. This is unique in its location, which I believe meets the -- one of the criteria that the Board has -- it is the self-imposed. I mean, I think the -- the question could be asked can they utilize a shared parking arrangement more effectively and not have to build this parking? And I believe that, Ms. Hammen, that may have been where you were driving at -- or can we park across the street at the bank or at Walgreens.

There are those options that exist. Is that the most practical and safe way of being able to get patrons or congregation members to and from the facility? Potentially not. So is it self-imposed? That's a decision that you all need to make. If I were asked, I would say yes, but there are options to eliminate the self-imposition of this issue, and that's by eliminating the existing landscaping. What's better for the community?

So with that, I mean, I would tell you that, again, the plan that is submitted mitigates the impact, is consistent with what we would do in any other commercial setting or office setting where you may have a church. This is a unique intersection that does have heavily -- high-traffic volume, consistent commercial development on three of the other corners, and to the point of why we have minimal landscaping on the other -- directly across the street and then over on Boone Hospital's site. Both of those were done through planned zoning districts.

Both of them had options to be able to be modified as part of that approval process. The church is not a planned zone; it's a straight zoning district, and required to comply with those standard zoning setbacks at that point. So that is why you see a little bit of variation in the amount of landscaping in green. Again, I like Mr. Crockett's approach as it is -- discussed the fact that if this was embedded in a neighborhood, I think we would be at a different juncture here as a staff.

This isn't embedded in a neighborhood; this is on the fringe of a neighborhood of two major inter-- at a cross street of two major roads. The ability to be able to accommodate their patrons on this site probably enhances the overall safety of the community as a whole. We lose very little as it relates to landscaping because we are still fully compliant with the Code, if not beyond that.

With that, staff would support the application for the variance subject to any landscaping that is forward of the property line, meaning closer to Forum Boulevard, not contained in their site be moved back through a revised site plan submitted to our building and site development department prior to final and full permitting. If you have any questions, I'd be happy to answer them.

MR. CARROZ: Anybody have questions for staff?

MS. HAMMEN: I do. Something I didn't ask before, but I will ask since you brought it up. How many spaces are in the lots now? How many parking spaces?

MR. ZENNER: I believe I -- I don't know if we have that number. Mr. Crockett, do you have that?

MR. CROCKETT: I do, actually. In Phase one, we had 200 spaces; Phase two, added another 155 spaces; Phase three did not have any spaces associated with it; and Phase four, the current phase, would add about 78. Now we do -- you know, so that gives us roughly two, three -- 425, roughly, spaces. Now we have a reduction from that because during the construction of some of those phases, we lost spaces here and there. So we're 400 to 425, I believe. Thank you.

MS. HAMMEN: My other question is so the plants as shown that don't go forward of the building line, we can request in a motion that there be x number of plants or that's given that you will or --

MR. CALDERA: We don't need to make --

MS. HAMMEN: -- would staff --

MR. CALDERA: -- to do that.

MS. HAMMEN: -- be looking at that?

MS. JOHN: We don't --

MR. ZENNER: The -- the plant material that is shown on the screen in front of you and that was included -- the blow-up that was included is compliant in all respects to the landscaping standards required by our screening and buffering requirements. Street trees plus general buffering landscaping actually exceed them according to our arborist. We do have some plant material that just needs to be scooted back out of the public road right-of-way back onto the subject site.

That was the observation that was made by the City arborist as we went back in and did a more detailed review. That was just something that was overlooked in the original plan review site. Interestingly enough, if you look at the denial letter, which was produced by our plan reviewer, two comments down from that, if I recall correctly, is our arborist's comment, which says, Approved. So you're -- it -- it further reinforces, and I -- I questioned that how could you, as our arborist, say it is approved and the plan reviewer is saying it is not. Tell me how this disconnect occurred.

The explanation by Chad Herwald, our City arborist is it meets all of our plant material requirements, it just happens to be that the parking, which is what the plan reviewer was looking at, encroaches into the 25 feet. Again, as Mr. Crockett pointed out, if this were an office or a commercial parcel, that eight feet of green space that is filled with plant materials is consistent with any other commercial or office development built any other day of the week.

MR. WATERS: So just to be clear, if this variance is granted, it's your intent to approve the plan, even though it -- there's a violation with the maximum parking?

MR. ZENNER: That is -- that -- based on -- and we'd have to go back and look at the history associated with the permitting -- the actual dates of permitting. The way that the UDC -- the enforcement components of the UDC are written, if the application was complete, submitted prior to the adoption, even though it wasn't permitted out, if we had a complete application and it was in review, the prior standards of the Code would apply.

And I cannot remember -- I know we began this process late last year, if not early this calendar year, which would have coincided to not having the new UDC standards apply. And Mr. Crockett may

have that information handy. If he does not, that's something that we would evaluate. If by the advice of law we need to request -- they need to request a maximum parking variance, they would have to come back. Unfortunately, that would be technically what it is, and that's a variance that obviously is not something that -- this is the first time we would actually have one, as it relates.

MR. CLITHERO: Wouldn't that have been on the plan review comments?

MR. ZENNER: Unfortunately, Mr. Clithero, given the breadth of the Code -- and I've had this conversation previously, I believe, with the Board, there is a lot of material in it. It is new to all of us. And sometimes our staff does not catch everything that is there. That is why I am a little bit -- that is why I am a little bit -- I am a little bit sympathetic to the situation.

However, that does not reduce the applicant's potential need to understand the full components of the Code. We make errors, unfortunately, like any other human, and sometimes we need to have those errors corrected. At this point, we may have to do some additional investigation, if not, pull the actual permit receipt date, and I do not have that.

MR. CARROZ: Comments? Questions? Legal, please?

MR. CALDERA: Just a few housekeeping measures. We need to admit three ordinances into the record: Ordinance No. 29-4.3, Ordinance No. 29-6.1, Ordinance No. 29-6.4. The City would seek to admit that as Exhibit 1, Exhibit 2 and Exhibit 3.

MR. CARROZ: So accepted. Thank you.

MR. CALDERA: As per usual, I will remind the Board that the criteria that they must utilize and assess in order to grant this variance is listed out in the ordinances, specifically 29-6.4, subsection (d) subsection (2), subdivision (1). There are five different standards that must be met in order to grant the variance, and I am happy to read those aloud, if the Board shall -- shall wish.

MR. CARROZ: Board, do we need to have those read? They do not.

MR. CALDERA: In regards to the max parking spots, I would say that that issue isn't ripe, since we don't know whether or not we would actually deny based on that at this point, so I don't think it is appropriate for the Board to address that issue at this time.

MR. CARROZ: It was not advertised as such, so we don't need to discuss it. Okay.

MR. CALDERA: That's all I have.

MR. CARROZ: Any other comments?

MS. JOHN: I'll move to approve an encroachment of a maximum of 18 feet into the front yard setback for parking with the screening as shown.

MR. CLITHERO: Second.

MR. CARROZ: Motion, and I have a second. Will the liaison please call the roll on the motion?

MR. ZENNER: Yes.

**Roll Call Vote (Voting "yes" is to recommend approval.) Voting Yes: Ms. Hammen, Mr. Carroz, Ms. John, Mr. Waters, Mr. Clithero. Motion carries 5-0.**

MR. ZENNER: Motion to approve the requested variance for an 18-foot encroachment has been

granted by the Board.

MR. CARROZ: Thank you, sir.

**V) GENERAL COMMENTS BY PUBLIC, STAFF, AND MEMBERS.**

MR. CARROZ: Anyone from the public wishing to speak? Seeing none. Are there any other items the Board or staff wish to discuss? I have one item for Mr. Caldera. I know we do a lot of paper and stuff, and I don't know if there's any ways that we can --

MR. CALDERA: Mitigate that?

MR. CARROZ: I don't know. It just seems like a lot of waste of --

MS. JOHN: We get a lot of paper that is redundant --

MR. CALDERA: Uh-huh.

MS. JOHN: And it immediately goes in the recycling.

MR. CALDERA: Yeah.

MS. JOHN: Is there any way that we can cut that down?

MR. CALDERA: Absolutely. If that's the Board's wishes, I will gladly do that. I do need to retain one physical copy for the record, because that is actual physical record that could be appealed, but there is really no requirement for me to actually hand out a physical copy to you.

MS. JOHN: We --

MR. CALDERA: And I can actually work with them ahead of time and send them any copies electronically.

MR. CARROZ: I think that would be preferred by the Board. If anything comes in that needs to be attached to the agenda prior to, if it's time permitted --

MR. CALDERA: Yes.

MR. CARROZ: -- it can be done. And if not, if the Board wishes to see it, we can hand that around one time and cycle back --

MR. CALDERA: Perfectly fine.

MR. CARROZ: -- to legal for final admittance into the record.

MS. JOHN: We can all --

MR. CALDERA: For purposes of --

MS. JOHN: We can also look stuff up online, can't we?

MR. CALDERA: Correct. For purposes of the certified copies though, unfortunately --

MS. JOHN: Yeah.

MR. CALDERA: -- if the -- usually it's a last minute thing. If the applicant hasn't provided it, it falls on me to ensure that the record gets supplemented. So usually I'm knocking these out last hour. So it wouldn't be attached to the agenda, but, again, as you said, we can circulate the one copy, if that's something you guys would like.

MR. CARROZ: I think it would be preferred by me.

MS. JOHN: Or even -- yeah. Even if it was just noted in the -- you know, this involves these

sections or something in the agenda.

MS. HAMMEN: Yeah. Could that -- that could be done in the agenda, this section, this section, this section.

MR. CALDERA: Pat, that's on your team whether or not you guys have enough time to make sure that you've got all the --

MS. JOHN: Not a big deal --

MR. CALDERA: Because oftentimes --

MS. JOHN: -- but --

MR. CALDERA: Yeah. I would say that the applicant -- on their actual appeal, they usually just cite the -- the ordinance that they are appealing on. They omit the one that establishes the standard and all that stuff.

MR. CARROZ: You'll just have to dig a little deeper to get it, and you might have to do a little printing of said documents instead of relying on the computers to see that. And the other thing, I'd -- I would prefer that -- the last meeting we had a summary of some sort, and I can't recall exactly what it was like, but I would like to have that back.

MR. ZENNER: I will -- I will see what happened, sir. I think with some transitions that we've had --

MR. CARROZ: I understand.

MR. ZENNER: Ms. Modrell-Miller may have not gotten that to you. I apologize for that.

MR. CARROZ: Yeah.

MR. ZENNER: But we will -- we will see if we can't get your crib sheet back for you so you know how to read things. Because this is very specific the way that you folks operate here; whereas, our other Boards and Commissions we serve are a little bit more --

MR. CARROZ: We got through it tonight.

MS. JOHN: Got -- yeah. I've got --

MR. CARROZ: Any other discussions?

MR. ZENNER: Other than the fact, just for the purposes of the viewing audience, we have decided on a 5:30 work session at your November 14th meeting.

MR. CLITHERO: We changed that time.

MR. ZENNER: Oh, to 5:00.

MR. CLITHERO: 5:00.

MR. ZENNER: I apologize. It will be 5:00 on November 14th. Your regularly scheduled meeting is on for 7:00 p.m. on the 14th, provided we have applications received. If we do not, we will send notice that we have no items -- business items, and may extend, at that point, your work session.

Your work session will likely not be here in the Chamber. It will likely be in another one of our meeting rooms here on the first floor of City Hall. And that will be advertised accordingly.

We will also be discussing the 2018 submission schedule, and for those that may be watching or interested, the application deadline for the first meeting in January, which is January 9th of 2018, will



actually be on December 11th, 2017, the day before your December board meeting. So that -- hopefully if there are people watching or interested, that is the date for that, and we will hopefully have your 2018 calendar posted following your November 14th meeting.

MR. CARROZ: And our work session meeting is a public meeting --

MR. ZENNER: That is correct.

MR. CARROZ: -- not public comment.

MR. ZENNER: That is correct. And we will also -- we did not get to the final item that was on your work session agenda this evening, which was staff reporting. We will hopefully be able to get to that at your next meeting. That was not meant to go live until January of next year. So we do have some time if we want to work out a couple of kinks in that between now and your first meeting of the new year.

And it's at that point that I think some of what you all are asking for we may be able to coordinate with law as to Code reference sections that may be applicable or what may be admitted as evidence in case the applicant has not. We potentially can easily accommodate that in on the written report, but we will be -- we will -- we propose that we will be doing written reports for all variances and appeal requests that are presented to the Board in 2018, so you have the understanding of what the impact of a particular Board decision is in the context, as well as in the broader community in making your decisions. So we'll discuss in greater depth on that at your next work session though.

MR. CARROZ: One more.

MS. HAMMEN: If you -- so before the next meeting and subsequent meetings be sure all our computers -- or at least mine is set up to where I can get to everything at a --

MR. ZENNER: We will pre-open everything for you, Ms. Hammen.

MS. HAMMEN: Thank you. I would really like that.

MR. ZENNER: Or get you the non-touchscreen computer --

MS. HAMMEN: Thank you.

MR. ZENNER: -- so it works like a normal one.

MS. HAMMEN: Yes.

**VI) NEXT MEETING DATE – November 14, 2017 (tentative)**

MR. CARROZ: So the next meeting is scheduled for November 14th, tentatively.

**VII) ADJOURNMENT**

MR. CARROZ: Motion to adjourn.

MR. CLITHERO: So moved.

MS. JOHN: So moved. Second.

MR. CARROZ: I have a second. All right. Thank you. The meeting is adjourned.

(Off the record.)

(The meeting adjourned at 7:48 p.m.)