

**MINUTES**  
**PLANNING AND ZONING COMMISSION MEETING**  
**COLUMBIA CITY HALL COUNCIL CHAMBERS**  
**701 EAST BROADWAY, COLUMBIA, MO**  
**SEPTEMBER 8, 2022**

**COMMISSIONERS PRESENT**

**Ms. Sara Loe**  
**Ms. Tootie Burns**  
**Mr. Michael MacMann**  
**Ms. Sharon Geuea Jones**  
**Ms. Valerie Carroll**  
**Ms. Peggy Placier**  
**Mr. Anthony Stanton**

**COMMISSIONERS ABSENT**

**Ms. Robbin Kimbell**  
**Ms. Shannon Wilson**

**I. CALL TO ORDER**

MS. LOE: I would like to call the September 8th, 2022 Planning and Zoning meeting to order.

**II. INTRODUCTIONS**

MS. LOE: Commissioner Carroll, may we have roll call, please?

MS. CARROLL: Commissioner Loe?

MS. LOE: Here.

MS. CARROLL: Commissioner Stanton?

MR. STANTON: Here.

MS. CARROLL: Commissioner Burns?

MS. BURNS: Here.

MS. CARROLL: Commissioner MacMann?

MR. MACMANN: Present.

MS. CARROLL: I am present. Commissioner Geuea Jones?

MS. GEUEA JONES: Here.

MS. CARROLL: Commissioner Placier?

MS. PLACIER: Here.

MS. CARROLL: Commissioner Kimbell? Commissioner Wilson?

We have seven; we have a quorum.

MS. LOE: Thank you.

**III. APPROVAL OF AGENDA**

MS. LOE: Mr. Zenner, are there any changes or additions to the meeting agenda?

MR. ZENNER: No, there are not, ma'am.

MS. LOE: Thank you.

MS. GEUEA JONES: Move to approve.

MR. STANTON: Second.

MS. LOE: Moved by Commissioner Geuea Jones, seconded by Commissioner Stanton. We have a motion to approve the agenda. I'll take thumbs up approval on the agenda.

(Unanimous vote for approval.)

MS. LOE: It looks unanimous. Thank you.

#### **IV. APPROVAL OF MINUTES**

MS. LOE: Everyone should have received a copy of the August 18, 2022 meeting minutes. Were there any changes or amendments to those minutes?

MR. MACMANN: Move to approve.

MR. STANTON: Second.

MS. LOE: Moved by Commissioner MacMann, seconded by Commissioner Stanton. I'll take thumbs up approval on those minutes.

(One abstention; six votes for approval.)

MS. LOE: Six to approve and one abstention.

#### **V. TABLING REQUESTS**

##### **Case Number 246-2022**

**A request by Crockett Engineering (agent), on behalf of Fred Overton Development, Inc. (owner), for assignment of R-1 (One-family Dwelling) district permanent zoning, upon annexation, to a tract of land containing approximately 53.80 acres. The subject tract is located northwest of the terminus of Bristol Lake Parkway, east of Bearfield Road, and north of the existing Bristol Ridge Subdivision. An associated preliminary plat (Case Number 245-2022) has been submitted which will be concurrently reviewed with this request. (A request to table this item to the October 6, 2022 Planning Commission meeting has been received.)**

MS. LOE: Any additional staff comments on the tabling?

MR. ZENNER: As noted within the correspondence from Crockett Engineering, as well as the staff's correspondence associated with this, the request for the tabling is to address several technical issues and to process or to begin the process of developing a development agreement to go along with the subdivision components, the annexation and subdivision components. Hence, they have asked for the tabling to the October 6th meeting. It is possible that there may be an additional tabling request forthcoming on October 6th, but that is dependent upon how far we get with the development agreement content prior to having to publish for the October 6th meeting. So at this point, we have just recently met internally. We are preparing to provide correspondence back to the -- to Crockett Engineering as to the needs for us to begin development of that agreement, but it is a technical issue, a fully technical issue associated with why, and then the timing associated with getting all of those technical questions

answered is what we believe may result in the extension. Right now, we are hopeful that the one-month delay will allow us sufficient time to be able to resolve the outstanding matters.

MS. LOE: Thank you, Mr. Zenner. Are there any questions for staff on the tabling?  
Commissioner Placier?

MS. PLACIER: Yeah. Just a question about the order of annexation and zoning and platting. We've talked about this before. Could the applicant move ahead with annexation prior to us doing our job. I mean, why is that -- it seems like things -- the cart is before the horse or something sometimes.

MR. ZENNER: Procedurally -- procedurally, a recommendation of the appropriate permanent zoning must accompany the application for annexation. Requests and recommendations for the appropriate zoning are generated from this body, and that's why the process of annexation occurs after the Commission has reviewed the land-use specifics which are rolled into, in essence, the Council's public hearing associated with the appropriateness of annexing the property into the City. And then once that annexation public hearing has been held, which is a policy decision, the final action on actually acting on the annexation, the policy expanding the City's corporate limits is merged with the zoning. So in order for Council to have an understanding of what is being sought, what the Commission's considerations were of the permanent zoning that's within the annexation petition, we take action with the Commission first and then Council takes action as part of their public hearing and merging the two at the very end.

MS. LOE: Any additional questions for staff? If not, this is on the public agenda.

MR. ZENNER: Yes. This was an advertised public hearing with the request for a tabling being presented, so those that may be present, as we have in the past, would be allowed to address the tabling component.

MS. LOE: So if there are any public who would like to comment on the tabling action, we will open up the floor to public comment at this time.

#### **PUBLIC HEARING OPENED**

MS. LOE: And if there are not, we will close public comment on this case.

#### **PUBLIC HEARING CLOSED**

MS. LOE: Commission discussion? Commissioner MacMann?

MR. MACMANN: Commissioner Burns, did you have a question?

MS. BURNS: No. I was going to make a motion, but please, go ahead.

MR. MACMANN: Okay. I will make a motion. In the matter of Bristol Ridge Plat Number 2, permanent zoning, Case 246-2022, I move to table until October 6.

MR. STANTON: Second.

MS. LOE: Moved by Commissioner MacMann, seconded by Commissioner Stanton. We have a motion on the floor. Any discussion on this motion? Seeing none. Commissioner Carroll, may we have roll call, please.

**Roll Call Vote (Voting "yes" is to recommend approval.) Voting Yes: Ms. Loe,**

**Mr. Stanton, Ms. Burns, Mr. MacMann, Ms. Carroll, Ms. Geuea Jones, Ms. Placier. Motion carries 7-0.**

MS. CARROLL: We have seven votes to approve; the motion carries.

MS. LOE: Thank you. Recommendation for tabling is supported.

## **VI. SUBDIVISIONS**

### **Case Number 226-2022**

**A request by Brush & Associates (Agent), on behalf of Thomas and Mary Mills (Owner), for approval of a one-lot final plat of A (Agricultural) zoned property that will require a sewer main extension, to be known as Mills Estates Plat 3. The site is requesting access from Mills Drive, to the north, via an access easement. The 3.88-acre subject site is located on the west side of Forum Boulevard, approximately 400 feet north of Chapel Hill Road.**

MS. LOE: May we have a site -- 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 Mills Estate Plat 3, pending minor technical corrections.

MS. LOE: Thank you for the report, Mr. Smith. Before we move on to questions for staff, I would like to ask any Commissioner who has had any ex parte related to this case to please share that with the Commission at this time so all Commissioners have the benefit of the same information on the case in front of us. Seeing none. Are there any questions for staff? Commissioner Geuea Jones?

MS. GEUEA JONES: Yes. I was just wondering have they also begun any kind of a zoning or rezoning? I know that wouldn't be in this -- in this case, as well, but I'm just curious as to whether they have started that process.

MR. SMITH: No, they have not.

MS. GEUEA JONES: Okay. So it will remain Ag, which is one residence per two acres?

MR. SMITH: Yes. Minimum of two-and-a-half-acre size.

MS. GEUEA JONES: Two and a half.

MR. SMITH: Yes.

MS. GEUEA JONES: Okay. Thank you.

MS. LOE: Commissioner MacMann?

MR. MACMANN: Thank you, Madam Chair. The motion is to require with technical adjustments because they haven't been made yet. All right. Thank you.

MS. LOE: Any additional questions of staff? If there are none, we will open up the floor to public comment.

### **PUBLIC HEARING OPENED**

MS. LOE: If anyone has any comments they would like to share in this case, you can come up to the podium, and we do need your name and address for the record. If there is no public comment on this case, we will close public comment.

## **PUBLIC HEARING CLOSED**

MS. LOE: Commission discussion? Commissioner MacMann?

MR. MACMANN: I'd like to make a motion. In the matter of Mills Estates Plat 3, final plat, Case Number 226-2022, with technical corrections, I move to approve.

MR. STANTON: Second.

MS. LOE: Moved by Commissioner MacMann, seconded by Commissioner Stanton. We have a motion on the floor. Any discussion on this motion? Seeing none. Commissioner Carroll, may we have roll call, please.

**Roll Call Vote (Voting "yes" is to recommend approval.) Voting Yes: Ms. Loe, Mr. Stanton, Ms. Burns, Mr. MacMann, Ms. Carroll, Ms. Geuea Jones, Ms. Placier. Motion carries 7-0.**

MS. CARROLL: We have seven votes to approve.

MS. LOE: Recommendation for approval will be forwarded to City Council.

## **VII. PUBLIC HEARINGS AND SUBDIVISIONS**

### **Case Number 244-2022**

**A request by A Civil Group (Agent), on behalf of Charles Teeter and Donna Checkett (Owners), for approval of a two-lot consolidation plat, constituting a replat of Lots 19 and 20 of Grasslands Addition, Block 5, into a single legal lot. The combined parcel contains approximately 0.68-acres and is commonly addressed as 105 and 107 East Ridgeley Road. The property is zoned R-1 (One-family Residential). The applicants are also seeking approval of a design adjustment from Section 29-5.1 of the UDC pertaining to sidewalk construction.**

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

Staff report was given by Mr. Rusty Palmer of the Planning and Development Department. Staff recommends:

1. Denial of the requested design adjustment to Section 29-5.1; and
2. Approval of the final plat.

MS. LOE: Thank you, Mr. Palmer. Before we move on to questions for staff, I would like to ask any Commissioner who has had any ex parte related to this case to please share that with the Commission at this time so all Commissioners have the benefit of the same information on the case in from the case in front of us. Commissioner Burns?

MS. BURNS: Thank you. I don't have any ex parte to report, but I do live in this neighborhood and have for 28 years. I'm very familiar with this street. I walk daily, and so I pass this property quite frequently.

MS. LOE: Thank you. Any other comments on ex parte before we move on to questions for staff? Seeing none. Questions for staff? Commissioner Stanton?

MR. STANTON: I've seen the rendering of where the potential sidewalk would be. Why wasn't

a modified curb sidewalk suggested, like right up against the curb?

MR. PALMER: I believe the -- the issue would still remain with cross slope. It might be a little different, but it would still involve, you know, reconstructing a vast majority, if not all, of the driveway, which is the major -- major consideration really.

MR. STANTON: Thank you.

MS. LOE: Commissioner Carroll?

MS. CARROLL: Yeah. I'm looking back at my previous notes, and I can see that we very rarely approve sidewalk waivers. I'm wondering in a case that was at least somewhat similar on Edgewood, if I recall, a while back, do you remember if we did fee in lieu for that, or if we waived?

MR. PALMER: I don't remember an instance where we've done a fee in lieu. I know we have, but not -- not recently.

MS. LOE: Commissioner MacMann?

MR. MACMANN: Just a point of order. They're friends of mine. They did not pay a fee in lieu of.

MS. LOE: Commissioner Burns?

MS. BURNS: Just to, again, to elaborate. I believe we've done fee in lieu on commercial properties. In my ten years on the Commission, I don't believe we've ever done a fee in lieu on a residential.

MR. MACMANN: I will second. In my six years, seven years, that's -- yeah. It's just commercial.

MS. LOE: Any additional questions for staff? If there are none, we will open up the floor to public comment.

#### **PUBLIC HEARING OPENED**

MS. LOE: If you can give your name and address for the record.

MR. MURPHY: Good evening, Chair and Commissioners. I am Kevin Murphy with A Civil Group, offices at 3401 Broadway Business Park Court. I would -- I've got quite a few things to go over here. We don't have any groups here with us, so I would ask that I be able to -- allowed the six-minute time limit to discuss this?

MS. LOE: I think we can accommodate that.

MR. MURPHY: Thank you. Well, I'm back here again in front of you with another design adjustment for a sidewalk. This will be my third or fourth here recently, and none of which had a payment in lieu of, and, actually, one of them was a commercial property, but we did some other improvements instead that kind of helped with that. But anyways, I feel that the Code is broken in parts here when we're dealing with this, and I'll kind of get into that, but, you know, we have to keep coming back towards this. But my clients purchased their house that they live in now in 2000, and the adjacent property in 2019. It was a dilapidated house in the condition that they bought -- well, one of the

conditions when they bought that was that they would tear down the house and leave it as green space. It was their deal with the previous owners. They have done that, and now they want to consolidate the two lots so -- for one reason so that it can't be developed into another house if something were to happen to them and whatnot, but also that they want to age in place here, and this old house that they're in needs some improvements and potentially some additions that might conflict with that common property line in the future. But -- so they have to go through the subdivision, and even though they're subdividing; you know, they're combining the lots, this is what -- what they're doing. This is a 100-year-old subdivision and trying to make it conform to today's Code just doesn't work not only here, but in a lot of the other areas in the central part of town. And if the reality is that the design adjustment criteria for complying with the comprehensive plan, which -- which states that -- I guess is interpreted as that we need sidewalks everywhere, none of these should be passed if that's the case. I think the -- I personally think the comprehensive plan allows for sidewalks to also be put in, as it's noted in there, as part of a City sidewalk gap program, and could be paid by the adjacent owners as a benefit tax bill. But -- so the -- some of the existing sidewalks in this neighborhood, most of the existing sidewalks in this neighborhood are in dilapidated shape. Each of the panels are typically sawed at four feet. As it settles, these panels are breaking back and forth, breaking back and forth, so much of the sidewalks to the east of us are unusable. The City recently, with the Providence Road project, constructed a sidewalk all the way down the south side of Burnam Road to Birch Road at no cost to the adjacent property owners there. I believe that was truly needed because that's where most of the apartments and multi-family, where that's just used more frequently and more often. But we've got letters here from 13 of the -- 13-plus of the neighbors and the neighborhood association all in support of this, that they're not needed or wanted, and some of them, I believe, are here tonight, and they can speak upon that. As far as -- yeah, the payment in lieu of, again, just to combine these lots alone is quite a cost to a property owner that's not really doing much of anything, let alone \$14,000 that would -- would even benefit them, would go somewhere else and do something. I will say that the house directly behind them did not -- was recently demolished and I think it's just now completed building a new house, and they were not required to put in sidewalks because they didn't subdivide. They did not have to go to the platting process. That's happened in a few lots in here, as well as vacant lots that have filled in over the years where they did not have to do that, but -- basically, I guess that's it. I think the payment in lieu of -- I think the sidewalk design adjustment is -- is justified here, and I do not think the payment in lieu of is justified. Many of the neighbors, again, will walk the -- they're just used to this, and if sidewalks were put throughout the neighborhood, it would have a great, you know, damaging effect on that with the --

MS. LOE: Thank you, Mr. Murphy.

MR. MURPHY: Thank you.

MS. LOE: Questions for Mr. Murphy? Commissioner MacMann?

MR. MACMANN: Thank you, Madam Chair. Mr. Murphy, I agree with you about the Code in

relationship to the older neighborhoods. And you may recall our new Code is relatively efficient at what's called greenfield, new construction, you know, building in cow fields. We do have a brownfield problem, an in-fill problem, and maybe next year -- I'm looking at our Chair, and looking at our liaison, we might be able to -- we are -- we are aware of these issues, and we're addressing them slowly. One of the -- the utility thing downtown, things of this nature, trying to address them as we get to them. And this has been a recurring issue, like, the last year and a half, two years, as you know. You've been here. You're not the only one who has been here, going, hey, this doesn't work.

MR. MURPHY: Right. Right.

MR. MACMANN: So we're working on it.

MR. MURPHY: I wholeheartedly agree with you, and I'd -- I'd be happy to work with you folks if -- in identifying these problems.

MR. MACMANN: I -- there are many brownfield issues that we would like to address also. Thanks.

MS. LOE: Any additional questions for this speaker? I see none. Thank you.

MR. MURPHY: Thank you.

MR. ZGUTA: Hi, there. My name is Greg Zguta; I live at 1034 Lagrange Court, which in the Grasslands neighborhood, and I also serve as president of the Grasslands Neighborhood Association. We submitted a letter, which you have in the -- in the packet, and I wanted to point out that our -- our board, which consists of seven members, met to discuss this particular issue and unanimously supported the design adjustment to not require the sidewalk. That's definitely what -- what our board supports and would like to see. A lot of the comments that I wanted to make are in the letters from folks you've seen, but I wanted to reiterate a few of the things that -- that I think are most important for -- for the association. The first is the unique character of this neighborhood, which has come up a few different times, that, you know, the neighborhood is -- is located near downtown, near campus, surrounded by the MKT Trail. It's in a unique position in the neighborhood. There isn't through traffic through the neighborhood. The streets and the sidewalks that are there are really serving the folks who live in the neighborhood, not -- not passing through. The neighbors have an interest in preserving the character of the neighborhood, so covenants were adopted by a number of neighbors, you know, for properties that have been developed over time and don't have a lot of consistent rules around them, and that's been done in an effort to -- to preserve the character of the neighborhood and the lack of sidewalks is -- is actually part of that. And we're accustomed to sharing, you know, R-1 homes with the -- the students who live over on Burnam. The fraternities and sororities are all part of -- of what we're accustomed to. So some of the reasons that -- that the association supports the request and doesn't want to see a sidewalk in this location is that the lack of sidewalks other places, the vast majority of the neighborhood doesn't have them. There is no continuity between this sidewalk and any others, and to the -- to the west, there's a long way to go to have any connectivity to any other sidewalk. The neighbors are accustomed to sharing the road; you



know, walking, biking, and many neighbors choose to live in this neighborhood because they can walk to so many places. They make that choice, knowing that there aren't sidewalks available for many of the -- their paths through the neighborhood. The variance, you know, in this case wouldn't preclude the installation of -- of sidewalks at some point in the future if there were resources devoted to that. It's a -- it's a big task with the lack of sidewalks, and it's not suggesting that that's desired, but granting this request wouldn't preclude that in the future. This particular request would exchange some trees, landscaping, green space for -- for pavement that wouldn't serve any purpose. You know, neighbors don't believe it would be used by anyone to walk on, it would really just be something to walk past on the street. And -- and this variance is really consistent with past decisions made incrementally over many, many years, and so it would make sense to -- to grant the variance in this -- in this case, as well. And in my personal experience, we built a house in this neighborhood and in a lot that was already existing in 2012, and had a similar, you know, issue with our builder around, you know, a sidewalk request, which we were not required to -- to put in place, so that's one example from my personal experience that would be similar to this, but I know there are others that have been mentioned. So in the end, it feels, you know, a little onerous to place a burden on the property owners for this sort of request to put a sidewalk in place given all these -- all these -- all these considerations. So I'd ask you to consider those and appreciate the opportunity to talk to you about it.

MS. LOE: Thank you. Are there any questions for this speaker? I had a question. So you mentioned you built a house and there was a sidewalk requirement on your lot?

MR. ZGUTA: Our builder handled that process for us, but I remember that coming up, that there was going to be -- there was a discussion about whether a sidewalk should be put in place. We live in the cul-de-sac at the end of Lagrange Court, so it's the far left, lower-left corner of the map up there. And so it would have been a little curved sliver of sidewalk. And I don't know the particulars. We didn't have to go through this process to navigate that, but we were not required to -- to put a sidewalk in place.

MS. LOE: Thank you. Any additional questions for this speaker? I see none. Thank you.

MR. ALDEN: Good evening, members of the Commission. My name is Mike Alden, and my wife, Rockie, and I live at 111 East Ridgeley road, which is directly east of this property. And so we're here to speak in support, or I'm here to speak in support of the design adjustment, which we've contemplated and talked about. First off, my compliments to the staff and their presentation. I thought it was really thorough and certainly gave a broad -- a broad understanding, not only for all of you, but for many of us that actually live in the neighborhood, too. So it's great to be able to see that. I think the photograph or at least the slide that's up on the screen right now tells a -- tells a pretty big story, and that shows the original sidewalks that were placed in that neighborhood somewhere between 60 to 90 years ago are the ones that are located right there off of -- off of Bingham, and then they work onto Wayne Road, and that's all there are in our neighborhood, so to speak. Once you get up to Burnam, you see the other sidewalks that were constructed by the City and the great job they did with that and the stoplight

there at the corner, as well, too, as well as the sidewalks that go down towards Grasslands Park, and then that connects us to the -- to the trail, so it's a pretty unique neighborhood. Certainly, you all know the history of that neighborhood and how long it's been here, and there's some characteristics in the neighborhood itself that provide a real special experience for all of our neighbors and all of us that live there. So the first I wanted to talk about certainly was the history, which you know about. The second, which had to do with consistency. I think there is certainly important to be consistent on what we try to do and what we try to do throughout the City, but the consistency also needs to be addressed, I think, on an individual basis, as well, too, when you're confronting something like this. The sidewalk that's being discussed here this evening is really the sidewalk to nowhere. Right? Because it ends at Mark Alexio's property to the west, and it ends at our property, and nobody is going to use it. So to be able to consider to try to make that type of investment for something that's not going to be used would certainly be a waste of money and certainly not consistent with what we're trying to achieve, I think, in the neighborhood. You know, and the final thing I wanted to mention really had to do with deficiencies versus policy. Right? And so if -- if, in fact, we're looking at a situation of an entire neighborhood that had deficiencies throughout, I think there is certainly something to be able to -- to be able to discuss, but there aren't deficiencies in this neighborhood. People choose to live here because of the community feel that you have in the neighborhood itself. It's a very active neighborhood. As Greg pointed out, a lot of walkers, a lot of runners, a lot of bikers, and our neighbors are used to being able to -- to navigate our neighborhood the way it is right now, and -- and, certainly, we'd like to see it remain that way. So my point today was to be able to speak to you, to thank you for considering this, and, certainly, to support, and we hope that you will support the design adjustment necessary to be able to continue to keep the history and the tradition and the uniqueness of our neighborhood. Thank you.

MS. LOE: Thank you. Any questions for this speaker? I see none at this time. Thank you.

MS. CHECKETT: Hi. Good evening. I'm Donna Checkett; I live at 107 East Ridgeley, and my husband, Chris, is here with me. And most of the points that obviously needed to be made have been made. I did want to provide just a little bit of perspective, and again, also start by thanking you all for your time this evening, thanking the staff for their time. It's been a very professional interaction, and I appreciate that. I've learned a lot about sidewalks. And I have to say I never in my life thought that I would oppose a sidewalk, but here I am in that situation. Just a little background. You know, Chris and I met, we lived here as adults. We've raised our family here. We bought our house about 22 years ago, and it's been mentioned the property next to us was a very small house. It was about 1,000 square feet. It just needed a lot of work in renovation, and we had actually asked the property owner, we said, kind of one of those casual statements, hey, if you ever want to sell, let us know. And in 2019, he told us he was getting married. He moved across the street, which is what happens in the Grasslands. A lot of people don't go far. And our contract actually had a provision that we would just tear the house down. We all agreed that was the thing to do. And at that time, I've also always known that we love the house.

I would like to spend my final days there, but it was built in 1949, and, really, at some point, you know, when we move to that stage in our life where we need walkers and wheelchairs and the realities of being old, the house won't work. So we would like to be able to do a small addition, and I think that's when it became very apparent that part of the house right now is six feet from the property line. So we're going to -- to do anything, we're going to come right up to that property line. And so to be able to combine it into one unified plat would be fantastic, and that's really what brought us to meeting with the City a couple of months ago and finding out about the sidewalk. I think all the points have been made in terms of the cost being so excessive and just really not in keeping with the neighborhood. We have had so many people stop us. We have a very large sign in one of the lots, and a lot of people have stopped and asked about it, and it's just been unanimous support to keep it as it is. People really enjoy the green space. Some of our neighbors are here in the back. They've been over there playing softball with their grandsons, and it's just a great place. We love making it part of our community. It seems like the sidewalk is excessive, and really doesn't do anything but detract from the neighborhood. So I'd be glad to answer any questions. Thank you again for your consideration and for all you do for Columbia.

MS. LOE: Thank you, Ms. Checkett. Any questions for this speaker? I see none at this time. Thank you.

MS. CHECKETT: Thank you.

MS. LOE: Any additional speakers on this case?

MR. HOHENSTEIN: Good evening. I'm Bob Hohenstein; my wife, Debbie, and I live at 32 Bingham Road. Our home, our property is just north of this lot that you're talking about. I'm not going to take a lot of your time. I'm simply going to reinforce what everybody has already told you. We very much support wholeheartedly the design adjustment. We think it's warranted. It makes if nothing else, common sense to do this. As Mike said before, it's kind of like the sidewalk to nowhere. It goes from Mark's property -- Alexio's property, over to their property, and that's it. Okay? Ms. Checkett and her husband were going to be out thousands of dollars for this sidewalk and the work that you mentioned that needs to be done on their driveway to bring everything up to grade. And again, I appreciate -- that was a great presentation. And, again, I would just ask you to please approve this design adjustment. Thank you.

MS. LOE: Thank you. Any questions for this speaker? I see none. Thank you. Any additional speakers on this case? If there are none, we will close public comment.

**PUBLIC HEARING CLOSED.**

MS. LOE: Commission discussion? Commissioner Geuea Jones?

MS. GEUEA JONES: I agree that we have a problem in our Code, but the Code is what it is. And this is yet another request for a design adjustment because there aren't any sidewalks here now. We have to start somewhere. And the Grasslands is a lovely place. I've looked at homes in the Grasslands. I think it's great. It's not unique in the old southwest. In fact, I think we had a similar

design adjustment request with very similar arguments about people already walk on the streets. This is the character of the neighborhood. I think it was over in College Park maybe, or close to it off of Rollins. So our charge as Commission is to enforce the UDC unless there are such compelling reasons to deviate from it. To me, as I have said on all of these cases, our neighbors don't want it, we don't want to do it, and there aren't any sidewalks in the area are not compelling reasons to deviate from the UDC. If there's a cliff in the middle of our property is a compelling reason. So, I mean, I would like to explore do we just not want sidewalks in established neighborhoods? If that's the case, then we need to change the ordinance. Or do we want to say, you know, you need to give the right-of-way, but we're not going to make you build it. Great. We need to change the ordinance. But the way the ordinance is today, in order to enforce it, we have to deny this waiver. And I think I know how this will go, because it's gone that way on about the last four cases. But I want to have on the record that this is a reoccurring problem, and the standard, to my mind, cannot simply be do they want to or not, and that determines whether or not we put a sidewalk in a residential area. Because if we do that, then they'll never have sidewalks in most of the Fourth Ward. So that's -- that's my comment and thought.

MS. LOE: Commissioner MacMann?

MR. MACMANN: Since we're following form, I do support the design adjustment, and I agree with, conceptually, everything that Commissioner Geuea Jones has said. And that in mind, I'm going to volley this over to staff and remind them we need to get to some of these brownfield things sooner than later, because this is becoming recurrent -- this is a recurring theme, and you guys know that. I'm just getting that on the record for Council. It is my hope that the rest of this discussion and vote go the way the last four of them did. With that said, I'm done, Madam Chair.

MS. LOE: Commissioner Stanton?

MR. STANTON: I, too, agree with my colleagues, but this is why it's in front of us. It's in front of us because it is kind of on that fulcrum either way, and it's up to us to analyze the information and determine if we're going to agree with staff or not. So it is our charge to make that fulcrum lean to the left or to the right. My position is I do like the argument of the neighborhood. If there was so little sidewalk, the complexion and the texture of the neighborhood is of such that a sidewalk in this area probably wouldn't make much sense -- just for that. And so I plan to support the adjustment even though it goes against the Code and all of that, but it's left -- it's left to us to make that kind of on-the-spot audible Omaha decision at the line of scrimmage and that's what we're going to do until we talk about this in a bigger forum in addressing the Code issue. And the only fear I have, which I don't see it in this neighborhood, but I just don't want us to get kicked in the butt later and then half the City has to pay for a sidewalk if there's some major improvements that go in, and then we let the -- we let the property owner off the hook, and sidewalks do come in and say, well, that's the City's problem. I don't -- that's the only thing that's bothering me, but I think in this neighborhood, that probably won't happen. But I plan to support the design adjustment.

MS. LOE: I -- Commissioner MacMann has identified this as a brownfield, which I am interpreting as being a bit of a quagmire in the UDC.

MR. MACMANN: Infill.

MS. LOE: I -- I don't consider this requirement to be a problem. I'm more with Commissioner Stanton in that I -- I don't see us able to construct a provision that encompasses all the conditions that exist in the City. Therefore, we -- we've created a requirement that covers some cases, but they will get kicked back to this body for decisions, and there are going to be decisions that aren't as clear. And we may -- we're on the fulcrum with some of them. So in this case, just to let the group know, we get the sidewalk to nowhere argument every time. Not on the -- not every time, but we do hear that one. And, for me, that's not a persuasion at this point, because it's really going to depend on the particular circumstances of the neighborhood. If this is a location where there is development still going on, where replatting is still going to require sidewalks coming in if building, then we do have to start somewhere, or I do see the pieces going together. And I'm not going to support a waiver because this is a piece, and in the next ten years, I can envision the rest of that system getting completed. In a case more like this where it's built out and despite the comment that a house was built and there may have been a sidewalk requirement, I can believe there was a discussion with the builder, but the fact that you didn't come through this process makes me think that, no, you did not get a sidewalk waiver, because that would only have been tripped by a replatting. And I don't think I've seen a replat in Grasslands -- well, okay, Ms. Burns. So -- but not very many. So I don't see this area getting built out with sidewalks in the next ten years. And because of that, I would support the waiver. Commissioner Burns?

MS. BURNS: Thank you. I think, and Staff can correct me if I'm wrong. Prior to adopting the UDC in 2016, sidewalks because our -- this neighborhood was so significantly developed, sidewalks were not triggered by a redevelopment. That's why Mr. Zguta didn't have to build a sidewalk, because of the significant, I think, 90 percent development. I think there are probably two lots now that are still available in Grasslands. And the house, my understanding is, on Bingham that was redeveloped because it wasn't a replat, didn't have to go through the sidewalk process. So maybe that's something we should look at, because it seems like a lot of our sidewalk requests do come from older, established neighborhoods, and we do hear the same arguments over and over again that it's a sidewalk to nowhere, that people aren't going to walk on it. But I can't unhear or unread what I heard tonight and what I read in the packet that the neighborhood is not supportive of it. There's no one here that's in support of it. And so I have to listen to what the people who live there say, and I have to understand that staff has to go through the process with the variance, but I plan on supporting this variance because I'm -- I'm listening to what the neighborhood is requesting. And I agree with Commissioner Geuea Jones that we need to revisit this, but perhaps look at established neighborhood in a different way than we look at new construction.

MS. LOE: I live in an established neighborhood that does not have many sidewalks. And I've

had neighbors leave the neighborhood for lack of sidewalks. So not all established neighborhoods are the same. Commissioner MacMann?

MR. MACMANN: Just to revisit this, the -- I was a little flippant before. I didn't mean to be quite so flippant. I was trying to have a little fun with the evening. A couple of criteria that I look -- look at in the development -- the developed neighborhood. Here on Ridgeley, over on Bicknell, or the Gibbs property over off of Edgewood is traffic, pedestrian and automobile traffic. And in all these situations, the traffic is very low and going very slow. Looking to the future, I lived in Los Angeles, and I lived in Connecticut, and if you're a developer, all that stuff -- we do it. You build out the sidewalk as you develop the development. That's not how they do it. They build everything, and then they put the houses in. So if we have a -- something like -- just something to look at in the future. I don't want to take these good people's times or anymore of our times, but there are ways to look at infill development that are creative.

MS. LOE: Commissioner Carroll?

MS. CARROLL: Thank you. I've been conflicted in addressing this case, as I was preparing for this and still now. The one thing that came up in our discussion tonight was the hope that this goes as the past four have gone. I'm not sure if we can easily categorize the last -- how the last four have gone unless we lump them into different buckets based on the surroundings because if I -- as I look back at our voting history, the vast majority have been turned down. And yet there are outliers to that case where neighborhoods are built out, granted. This one is not quite as strong as some of those outliers in my book, because it is those no site characteristics that are strong enough to make it impossible to build a sidewalk, and because in actual fact, it's less than a block away from a sidewalk stub. Now the flip side of this is when we do say sidewalks to nowhere, I also look at puzzle pieces to nowhere. I also live in the City -- in a part of the City with missing sidewalks here and there, and as we start to advocate for sidewalks, or not, the City may fill in sidewalks, and it is a piece that the City doesn't have to build. Now on the flip side of this, I think it is unlikely that the City would build a sidewalk in a neighborhood that asks the City not to build a sidewalk, but I don't know where the chips may fall for that, now or ten years down the road, if, as you all are aging in place, you decide that you want sidewalks. After all, that may change if new people live there later, that may change, and it is a puzzle piece that could lessen the burden of filling in a sidewalk. I don't think it will get filled in soon. I try to look for consistency in voting history, and it does look very discretionary to me, which is a place that I'm not comfortable with. I believe that I will support this because I don't think that it will get filled in.

MS. LOE: Any additional discussion? Commissioner MacMann?

MR. MACMANN: If my fellow Commissioners have no other questions or comments -- Planner Palmer, could you put up the main screen, please? Thank you. Our staff liaison, Manager Zenner, has just reminded me that this needs to be two plats. Legal is nodding at me, also. I should do the design adjustment first? I'm looking at our counsel, and then I'll move on to the plat, starting in that order. In

the matter of Grasslands Plat 17, final plat and design adjustment, Case 244-2022 -- Ms. Thompson, this is listed here in the negative. Should I list it in the positive?

MS. THOMPSON: That would be my advice, yes.

MR. MACMANN: That -- that's where I'm going. In the -- I move to approve -- stay with me, folks -- the requested design adjustment from Section 29-5.1. Point of order, all motions are made in the positive, so we don't get double negatives in the law. I will be voting no. Thank you. See how confused I get.

MS. LOE: Do we have a second?

MR. STANTON: Second.

MS. LOE: Moved by Commissioner MacMann, seconded by Commissioner Stanton. We have a motion on the floor. Any discussion on this motion?

MS. BURNS: Just to clarify that we are -- the motion indicated approval of the plat and approval of the design adjustment?

MR. MACMANN: I'm sorry. I was continuing to look at deny when I was speaking.

MS. BURNS: All right. Just want to make sure. Thank you.

MR. MACMANN: Thank you.

MR. ZENNER: And the motion on the floor is only dealing with approval of the design adjustment.

MS. LOE: Design. Just the design adjustment approval. All right. Commissioner Carroll, may we have roll call, please.

**Roll Call Vote (Voting "yes" is to recommend approval.) Voting Yes: Ms. Loe, Mr. Stanton, Ms. Burns, Mr. MacMann, Ms. Carroll, Ms. Placier. Voting No: Ms. Geuea Jones. Motion carries 6-1.**

MS. CARROLL: We have six yes votes, and one no vote.

MS. LOE: Commissioner MacMann?

MR. MACMANN: Seeing no other discussion on that, I'm going to make a motion on the plat. In the matter of Grasslands Plat 17, final plat, I move to approve.

MR. STANTON: Second.

MS. LOE: Moved by Commissioner MacMann, seconded by Commissioner Stanton. This is a motion to approve the plat. Any discussion on this motion? Seeing none. Commissioner Carroll, may we have roll call.

**Roll Call Vote (Voting "yes" is to recommend approval.) Voting Yes: Ms. Loe, Mr. Stanton, Ms. Burns, Mr. MacMann, Ms. Carroll, Ms. Geuea Jones, Ms. Placier. Motion carries 7-0.**

MS. CARROLL: We have seven votes to approve; the motion carries.

MS. LOE: Thank you. So the recommendations for approval are supported. Thank you. That

includes our cases for the evening.

### **VIII. PUBLIC COMMENTS**

MS. LOE: Any additional public comments? In general? No. All right.

### **IX. STAFF COMMENTS**

MS. LOE: Staff comments?

MR. ZENNER: The next meeting will be September 22nd. We will start that at 5:30 with a tantalizing discussion of short-term rental. Maybe we get through another half a page. And if I am not incorrect, we are approaching Commission officer elections here. I think that will be in October, so start putting your dance cards together for who may be the lineup for next year. We do have a regular 7:00 p.m. meeting. It will be shorter than this, but maybe no less complicated. Hopefully, it will not be as complicated. We are only discussing three items. And the two items that were on this evening's agenda or broadcast at our last meeting, both were delayed due to technical issues. They both were platting actions, and therefore, did not require public advertising. That is why they were not formally tabled this evening. When a project does not meet technical standards by which to be brought forward, it just is held back. We do send out early property notification postcards to our P & Z Listserv, and therefore, we did have some residents here this evening for the Oakland Gravel request that Mr. Palmer addressed earlier before our meeting started to explain to them the technical side of why that preliminary was not presented, but I thought I would inform you all as well. Neither of these required public hearing, and because they don't require public hearing, we don't have to go through that formal tabling process. And then the -- the highlight item for this evening's -- or for next meeting's evening's actions will be UDC text amendments, or phase 4 revisions dealing with drive-throughs, dealing with easements in the downtown, the elimination of the former C-2 zoning district from the UDC, and a collection of two or three additional more minor and technical related issues for clarity purposes, some missed section references within the Code as it exists today, for example, and the like. So while you have not seen those, they are really more administrative in nature, just to ensure that we've got correct cross-referencing. The big ones, however, are the top three that I listed: drive-throughs, utility easements in the MDT, and then the elimination of the C-2 zoning district. We will be sending out constituency notification of those changes to allow for our consultancies and other design professionals to have an opportunity to see those in advance of the public hearing. And we have really not heard much up to this point. There are a number of our design professionals that are aware we're working on those changes. You all would have received or should have received earlier from me this week an email, just so we have our maps here, as I usually do, so you have your graphic. These are the same maps that we presented at our last meeting for our two cases, the Hinkson Creek Road and Paris Road project, which we've seen previously, and then the project here off of Oakland Gravel, and infill development proposal for single-family housing. You all would have received from me earlier this week a notification of refresher training for our Sunshine Law requirements and responsibilities of Board and Commission member. We typically will do some



refresher training for those that are not new during our meeting at which we cover elections. At that point, we will also probably add in a couple of other topics, such as ex parte communication, and the like, of how we operate as a Commission for your newer members, so they have an understanding of why we do the things we do. It'll give me an opportunity to maybe just eat and not talk, and you a rest from hearing me. Other than that, that is all we have for tonight. I do appreciate your participation and your comments. If you have any suggestions to resolve our issues that we discussed tonight during work session, specifically owner, please feel free to send me an e-mail. I know Ms. Geuea Jones has already promised me a delivery, so I will look to try to reconcile what I do receive and then, hopefully, Ms. Thompson and I can work to try to come back with a potential solution based on the conversation tonight, as well, for you all to consider. We are moving slowly, but surely, to a point which I think we will be able to prepare our memo and then, hopefully, be able to get a venue with Council to discuss the regulations. Again, thank you very much for your attention this evening, and just to settle all fear, yes, sidewalks is in the next round, and I can also provide at a later date some of the logic behind why permitting under certain circumstances does not require sidewalk construction. Ms. Burns' assessment is correct. If you're not platting and you do meet criteria, you generally are not required to install sidewalk with a building permit. So what has happened in the Grasslands was not done illegally. It was actually done within the context of the Code. With that, I will turn it over to you all.

MS. LOE: Thank you, Mr. Zenner.

#### **X. COMMISSIONER COMMENTS**

MS. LOE: Commissioner MacMann?

MR. MACMANN: I have a point for our guests this evening, and Legal can help me out on this. We approved the design adjustment six to one. Am I correct in my statement that if Council were to overturn us, they must have a super majority?

MR. ZENNER: That is correct. If they want to go in the opposite direction --

MR. MACMANN: All right. For our -- for our listeners out there. Normally, most often, Council goes with us. They are not required to do that. They can do with us -- they can go against us at four to three. Because we voted six to one the way we did, they must now vote five to two. That's 75 percent; is that correct? I'm getting some noddings. Just so you all know that when it goes to the next level. Thank you, Madam Chair.

MS. LOE: Commissioner Stanton?

MR. STANTON: I would like to commend my colleagues up here that I think they were approaching these anomalies in a good fashion, and that we need to take note, which seems like everybody is doing, as far as where we see the hiccups in the Code. And I do not want us to get discouraged that sometimes we have to play -- we have to be a tiebreaker. And a lot of the things that come before us don't necessarily lean on the technical merits fairly, and it's up to us to use our logic and our background to make those decisions. So keep pushing forward and keep taking notes so that we

can adjust the Code accordingly.

MS. LOE: I like the use of logic. I would say that we're more logical than subjective in this group. So thank you, Mr. Zenner, for sticking with us through our discussions. We were coming around. With that, if there's a final motion?

**XI. ADJOURNMENT**

MS. LOE: Mr. MacMann?

MR. MACMANN: I move to adjourn.

MS. GEUEA JONES: Second.

MS. LOE: Second. I'm going to give it to Commissioner Geuea Jones on that one. We're adjourned.

(The meeting adjourned as 8:20 p.m.)

(Off the record.)