

**EXCERPTS**  
**PLANNING AND ZONING COMMISSION MEETING**  
**DECEMBER 8, 2016**

**Case # 17-16**

**A request by Peggy Hendren (owner) for a variance from the requirement of Section 25-48.1 (Subdivision Regulations) to install a sidewalk along the frontage of an R-1 (One-Family Dwelling District) zoned lot along an unimproved street. The subject site is located on the north side of Proctor Drive, approximately 550 feet east of Creasy Springs Road, and is addressed 811 Proctor Drive**

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

Staff report by Mr. Steve MacIntyre of the Planning and Development Department. Staff recommends denial of a sidewalk variance from Section 25-48.1

MR. STRODTMAN: Thank you, Mr. MacIntyre. Commissioners, any questions for Mr. MacIntyre? Ms. Rushing?

MS. RUSHING: On the photographs you showed, the one looking east, I think comes closest to showing the reason why there aren't any sidewalks on the south side. There is a significant incline there. So for sidewalks this particular side of the road would be the most appropriate it appears. And I also was concerned about traffic to and from that park, people walking to that.

MR. STRODTMAN: Ms. Loe?

MS. LOE: Mr. MacIntyre, in the subject site looking west that shows the telephone pole, the applicant's engineer's letter identified that pole may need to be relocated to install the sidewalk. Is that something staff has been able to evaluate?

MR. MACINTYRE: Common practice in such situations is to merely build the sidewalk around the pole.

MS. LOE: I've noticed that. So, okay.

MR. MACINTYRE: Not necessarily with the pole in the middle of the sidewalk, but working around it -- although we have seen that as well in the past.

MS. LOE: So it would not need to be relocated necessarily or --

MR. MACINTYRE: That's correct.

MS. LOE: Thank you.

MR. STRODTMAN: Mr. MacMann?

MR. MACMANN: Again, Mr. MacIntyre, thank you very much. The picture that Commissioner Loe just referred to, lower left, we're standing in the yard or at the edge of the yard of a house that was subdivided off. Correct?

MR. MACINTYRE: Correct.

MR. MACMANN: If a sidewalk was replaced it would be from approximately where the telephone

pole is to where the driveway is?

MR. MACINTYRE: I'm not sure if there would be any requirement to upgrade or replace a portion of that concrete slab.

MR. MACMANN: Well, at a -- how about we restate that. At a minimum from the driveway-- that first driveway is the one looking west to near the telephone pole, that is the variance where -- that they were requesting?

MR. MACINTYRE: Yes.

MR. MACMANN: At a minimum?

MR. MACINTYRE: Yes.

MR. MACMANN: Whether or -- and I don't know if this, Pat, would meet the City's requirements. Okay. Thank you very much.

MR. STRODTMAN: Additional questions for staff, Commissioners? I see none. As in past practices, we'll open this up to public input. It is not a public hearing, but if there is information that would help us with our decision, we would appreciate it. We would just ask for your name and address.

#### **PUBLIC INPUT OPENED**

MR. STRODTMAN: And I will open the public input portion.

MS. LUEBBERT: My name is Christina Luebbert. I am the applicant's engineer with Luebbert Engineering. My home office is at 304 Travis Court, Jefferson City, Missouri 65101. First, I wanted to address this -- that lower left picture and the question that you had about that. The -- the engineering department actually required for the approval of the plat that we remove all of that pavement because it is not permitted. It was constructed probably by somebody who thought, hey, I'm already parking here on some, you know, dirt, gravel, whatever, and slapped some pavement down and probably with no permission whatsoever. But I have no recollection of any information about that. But they asked that we remove it as part of the plat approval and put in a new driveway approach there and at the -- at the other driveway to the larger tract. And they said that we had to put in the sidewalk. And the City standard is that the sidewalk sits one foot off of the right-of-way line, which we had to dedicate additional right of way with that plat. So we designed a sidewalk with, you know, looking at that option, and I don't know if you got a copy of the sidewalk plan that was submitted with the plat, but anyway, it -- it shows basically that the sidewalk -- if one foot off the right-of-way, it would be basically centered on that telephone pole. And we showed that the telephone pole would have to be relocated. There is also a water meter that sits a little bit down from that that would also have to be relocated. And there is also kind of a -- it's hard to see in that picture, but the house sits a little bit below the street, so there is also kind of a grade change. Well, when we were trying to lay out grades, we called the City engineers and said, hey, you know, what should we do with the grades on this based on any future improvement to Proctor Drive? And so we did it based on the -- we set grades based on the center line of the -- center line of Proctor Drive as it exists today with the idea that if you ever had to put curb and gutter on it and build up a sidewalk, you would have it higher. Well, that traps water. So then we said, well, what if we put -- it's not very much water, so maybe we can

just put a little pipe under it and call it good. We thought we had that solved. But doing that caused different problems because now I have this sidewalk that is sitting a lot higher, but further back than the house. And the other problem is, is I have now also encroached under the weep line of the very nice 24-inch maple that you can see in that picture. You know, so we started -- as we were going through the platting process and all these things are starting to come up and they -- you know, and the cost involved with them, you know, City staff mentioned, well, you could move the sidewalk out of the standard location and maybe put it back on to the property a little further in a pedestrian easement. Well, I hadn't really considered that as an option, but, you know, we started looking at that, yeah, maybe that would work. But to move it behind that telephone pole -- and which would also then have to look at revising the grade and making the grade -- making the sidewalk significantly lower than the street, which would mean if you ever improve the street, it would be at the wrong elevation, and it would also damage that tree. So I -- and in the meantime, I'm also preparing a tree preservation plan that says I have to leave all of the trees. So, you know, it was where I had conflicting needs and we started really looking at this thing, kept getting more expensive and more expensive, when really the whole point of this was to try to get her out from under this nightmare of being a landlord by having this one little house that she has been renting out. You know, we kept looking for better solutions, and at the end of the day, we were like it's not going to connect to anything. The property owners to the east don't have any desire to develop that property. Yes, it could change hands in the future, but the -- the foreseeable future is it will not be a development. And the same to the west, even though it is only one tract, it is 178 feet away to the next sidewalk. And they don't have any desire to develop. It's already got a house on it. They're not having any desire to change that. And while this is in the vicinity of the school, the school is almost three-quarters of a mile away. You're almost on the edge of where they start requiring bus routes anyway. And the park land is a third of a mile away. It's not like it's a developed park at this time. It's got, you know, a few trails, but I'm trying to come up with enough justification for the immense amount of effort that it is going to take to put in a sidewalk, and, you know, the Planning staff said, well, you could just connect it to this end of maybe this existing pavement, but the engineering department said I had to take that pavement out. So I keep going back and forth trying to find what is the solution that makes the most sense. And this isn't like we are trying to do a big subdivision project that we are going to sell lots and make money. This is just trying to get out from under this, and it has been a very expensive, you know, essentially, tract split. So we are trying to come up with, you know, what -- what makes sense for this project. So I -- while I see some of the side of what the Planning staff was trying to accomplish and trying to be helpful and give us some alternatives, I was, like, if I go here, then I have this problem and if I go here -- and I can't go closer to the road or I start being too close to traffic. So to get away from the tree and away from the telephone pole, I start, you know, encroaching into what we try to keep as a clear zone from a traffic engineering standpoint. I just didn't see that this little stub of sidewalk -- you know, an island of sidewalk made a whole lot of sense, and I would hope that you would consider that when you go to make your decision.

MR. STRODTMAN: Commissioners, any questions for this speaker? Ms. Burns?

MS. BURNS: Yes. So the engineering department would not allow you to extend from the concrete pad to the west to connect the sidewalk extending to the street then?

MS. LUEBBERT: When we submitted the plat, they specifically requested that that pavement be removed.

MS. BURNS: Okay.

MS. LOE: But you haven't asked them if you can -- for an exemption or waiver from that to leave it?

MS. LUEBBERT: Not yet.

MS. LOE: Okay.

MS. LUEBBERT: Because we were looking at, you know -- that didn't come up when we were at that stage.

MR. STRODTMAN: Yes, ma'am? Ms. Burns?

MS. BURNS: I also wanted to ask if -- if you were allowed to extend from the concrete pad, would the telephone pole still present a problem or would where you are off the street be acceptable?

MS. LUEBBERT: That would be up to the traffic engineers and whether they consider that a wide enough clear zone. I -- that's not very far. I'm looking at my scale of my drawing, and it looks from the telephone pole to the street is only about seven or eight feet, and we do a five-foot sidewalk. I'm thinking -- my gut reaction is that it would be too close to the street, but I would have to see if the, you know, traffic engineers were comfortable with that.

MS. BURNS: Thank you.

MR. STRODTMAN: Ms. Loe?

MS. LOE: Have you been told the sidewalk can't -- or the pole can't be in the sidewalk?

MS. LUEBBERT: I don't --

MS. LOE: We've just heard that it can be.

MS. LUEBBERT: I don't think I have specifically asked that, but I've always considered that from an ADA standpoint, I want to have a clear sidewalk.

MS. LOE: Right. The ADA requires a 36-inch wide path. So five feet gives you two feet of leeway. You don't have to have the full sidewalk clear of the pole.

MS. LUEBBERT: I guess I haven't asked if I can leave the side-- the pole in place and put the sidewalk through it. No, I haven't --

MS. LOE: Thank you.

MS. LUEBBERT: -- specifically asked that question.

MR. STRODTMAN: Mr. MacMann?

MR. MACMANN: Just very briefly as a follow up to Ms. Loe's point and the City traffic engineer can address this. We have lights and other things within six, seven feet of the road all over town -- correct -- which we go around in the general sidewalk scheme? So it is possible theoretically to go around these things? I mean, I'm not asking for approval, I'm just -- we do this -- okay. That's all the

point I wanted to make.

MR. STRODTMAN: Commissioners, any additional questions for this speaker?

MS. LUEBBERT: My only point to that is that usually that is on a curb and gutter road that has less likelihood that the car is going to leave the travelled way onto that sidewalk.

MR. MACMANN: True enough. I was also thinking on -- I live off West Ash, and we have things within four feet. We have a sidewalk too, but, yeah.

MS. LUEBBERT: Right. And I --

MR. MACMANN: But you're correct. It's more of a curb and gutter situation.

MS. LUEBBERT: It's balancing what is engineering standard and, you know, with what sometimes is the practicality of construction. So it would be -- you know, if the City engineers would buy off on it, I'm definitely open to creative design, but it's -- there's -- the other aspect is that this is such a large expense for what is not really an income generating project, you know. This is -- this is a huge amount of -- besides the engineering and surveying costs, this is the primary cost for this project. It is very burdensome. But I will let Ms. Hendren address that. Any other questions?

MR. ZENNER: Mr. Strodtman, before Ms. Luebbert sits down, Christina, can you tell me based on the lower picture in this left -- in this image, is the distance between the existing edge of pavement -- what is the distance between the existing edge of pavement and the sidewalk that you see in the distance there? Do you know? And is the distance that we see here in the foreground of the picture here in the lower left-hand corner an equivalent distance? So is the sidewalk actually going to be behind that pole or is it going to be in front of it.

MS. LUEBBERT: If I extend the sidewalk in the distance, I'm pretty sure the sidewalk in the distance is very close to the City standard of one foot off of the right-of-way.

MR. ZENNER: Okay.

MS. LUEBBERT: And the right-of-way is the same because we dedicated additional right-of-way. It is now a straight line through there --

MR. ZENNER: Okay.

MS. LUEBBERT: -- from that sidewalk to past this property. So the sidewalk should extend if you follow the standard, the one foot off.

MR. ZENNER: Uh-huh.

MS. LUEBBERT: That puts it almost centered on that pole, maybe two and a half feet behind the pole and three and a half feet in -- you're -- it's pretty close. Looking at my drawing, it's ever so slightly off center.

MR. ZENNER: Okay. And in asking the question as you all were discussing and Ms. Luebbert was discussing issues about potentially having our engineering staff authorize a sidewalk to be moved closer to the edge of pavement that you see in this foreground, no, that would not be an acceptable solution given the fact that there is no curb and gutter. While we do permit sidewalks to be built at the back of a curb with an enlarged width of six feet versus the standard ADA five, in this particular instance

without curb and gutter being installed in this particular section, moving it closer to the pavement is probably going to exacerbate a safety-related matter. The other issue, Ms. Luebbert, I would like to ask is has our -- the asphalt that is there or the concrete that is there is not gone at this point?

MS. LUEBBERT: It hasn't been removed at this time.

MR. ZENNER: And what is the condition of the removal of that given that the plat has already been approved, and can you explain to the Planning Commission your storm water variance that you had asked for, and if I understand correctly, was not approved.

MS. LUEBBERT: It was granted.

MR. ZENNER: It was granted. So the storm water was not --

MS. LUEBBERT: The storm -- we got a variance from the storm water requirements, and we actually at the time that we applied for that, we discussed whether we should go for the sidewalk variance at the same time. And we felt like that was a bigger onerous problem, and so then when we -- we got some feedback from staff at that -- at that meeting that said maybe we should look at this as a potential option, you know, just to some extent, you have to ask and figure out is there a way to do this in a way that makes sense and is -- I mean, and I -- and they said, well, you could go behind the pole. And then I -- when I went to lay that out, I saw the tree was the problem, you know, and the grade was the problem. So I -- I kind of went back and forth on this.

MR. ZENNER: How far is the -- how far is the tree from the pole? The picture doesn't represent that very well, so --

MS. LUEBBERT: The shot the surveyor took on the tree looks like it is about -- not five, but probably six or seven feet behind the pole.

MR. ZENNER: So --

MS. LUEBBERT: So we would be very close to the trunk of that tree --

MR. ZENNER: If you pushed the --

MS. LUEBBERT: -- with the edge -- if we push the entire five feet behind the pole without moving --

MR. ZENNER: You're heading where I'm heading then, I guess is --

MS. LUEBBERT: And the water meter actually sits behind the pole another foot and a half, two feet, so -- now, water meters are a little bit easier to adjust. We could actually leave the water meter --

MR. ZENNER: In the sidewalk.

MS. LUEBBERT: -- where it is located --

MR. ZENNER: Yeah.

MS. LUEBBERT: -- and just adjust it.

MR. ZENNER: So in light of Mr. Stanton's favorite phrase of a win-win solution here, is it possible to be able to extend that sidewalk so you are coming more toward the center of that pole and then deviating the sidewalk as you have to in order to work around the pole with a 36-inch section which would be required, and then come back to be able to make the sidewalk centered again on the pole once you

have passed it?

MS. LUEBBERT: From a planned view alignment, I think that could work. You would only be -- only in that one brief section would you be closer to the road.

MR. ZENNER: Well, potentially, or you would go behind the pole.

MS. LUEBBERT: Well, behind the pole run -- I think by the -- that tree and that pole are only about 10 feet apart east-west --

MR. ZENNER: Uh-huh.

MS. LUEBBERT: So to make that transition to go behind the pole I think would damage the tree. I don't think I could save the tree if that -- you know, again, this is where I kind of got stuck was trying to look at all of these alternatives. And that is when I finally said I think we should ask for the variance.

MR. ZENNER: So tapering the sidewalk down in order to be able to get to a point to where you have a three-foot section so you're --

MS. LUEBBERT: I would put the three-foot section in front of the pole.

MR. ZENNER: In front of -- okay. And that --

MS. LUEBBERT: Because I don't think I would have to sway the sidewalk very much to get the three feet.

MR. ZENNER: The three feet.

MS. LUEBBERT: Because I think I have close to that now.

MR. ZENNER: Now, my next question would be the engineering department or at least our plan review staff has not indicated to you that you would be able to place the sidewalk on existing grade given the fact that we do not have an improvement plan that is available for Proctor?

MS. LUEBBERT: We didn't -- I didn't get a lot of feedback when I asked for what to do with the grades on this. They said we don't have -- it's not in the 20-year plan, you know, propose something and -- and I -- and I came up with what I thought made the most sense, which was to try to be respectful of if they wanted to add curb and gutter only, then the sidewalk wouldn't have to be rebuilt.

MR. ZENNER: I would appreciate -- I appreciate that. And if I will -- I will advise then the Planning Commission that it is standard practice when we do not have an alignment for a future roadway project that sidewalk that is required is required to be placed at existing grade to meet ADA standard, and then it is an anticipated cost of reconstruction of a future roadway improvement to remove that existing sidewalk after its original use has been dealt with and incorporate relocation to an elevation that then would match with curb and gutter at a future date. Given that the concrete has not yet been removed and given the fact that if it is acceptable to utilize that concrete at this point for the sidewalk, what a limited amount of removal may be necessary to satisfy the building and site development department's concerns, which I am not sure what the executable trigger is for that because the plat has already been recorded.

MS. LUEBBERT: I think it is the three-year contract of --

MR. ZENNER: Okay.

MS. LUEBBERT: -- improvements.

MR. ZENNER: And if that is -- at that point, I think if you were to suggest that if as part of your recommendation if you were inclined to require the sidewalk, I would suggest probably commissioning that approval upon the usage of the existing concrete, if acceptable, and meeting ADA standards, and the remaining removal being required as per the building and site development requirements at the time of preliminary plat approval, and allowing it to neck down to the three feet. That would be an acceptable solution to be able to get out of, I think, neutral at this point and allow the project to move forward.

MS. LUEBBERT: I don't know if that existing pavement is suitable for sidewalk or not. I would -- I would have to evaluate that with the -- I mean, I've looked at it like one time, but I had already been told it needed to be taken out when I looked at it, so I didn't really evaluate it for that. So I would have to talk with the other City engineers and see if they would even -- if that's even something they would consider.

MR. ZENNER: I think ultimately though the improvement -- the impervious improvement is there. If it needs to be cut and replaced, it needs to be put back in the same location. We have the potential for usability, albeit, it's a disconnected system, but it may serve a useful purpose for the period before Proctor is either redesigned and rebuilt with curb and gutter or the adjacent properties to the east and west may be built out with a different use. As Mr. MacIntyre has pointed out, this is consistent generally with the idea that we don't have any practical hardships. We do have sidewalk network in the area. And given if we didn't, I think the recommendation potentially would have been slightly different given the fact that the majority of this particular area is really relatively rural in nature and low traffic, but you have generators such as the park and the school, and we have to take that into account with the recommendation. Ultimately, I don't think anybody wins here. It does seem a little bit impractical, but we do, as I have said previously, sidewalks to nowhere do generally need to start somewhere, and this may be a gap that we fill and then the adjacent property that is zoned or developed with that residential structure redevelops. It is very similar in size to the subject tract that was just subdivided. So there is nothing to say that they could not potentially yield an extra home out of the tract that is to the west, which would then necessitate some type of sidewalk installation.

MR. STRODTMAN: Ms. Rushing?

MS. RUSHING: Does it matter whether that portion that is shown in that lower left-hand side picture is asphalt or concrete?

MR. ZENNER: Sidewalk construction by our standards is concrete, generally five feet.

MS. RUSHING: So --

MR. ZENNER: We've looked at alternatives, Ms. Rushing, when we know we are building a temporary sidewalk.

MS. RUSHING: That's -- but my question is, is if the existing is asphalt, then would they still be able to count that as part of their sidewalk?

MR. ZENNER: Ms. Luebbert, is the existing portion there, is that a concrete pad or is it asphalt?

MS. LUEBBERT: The surveyor has listed it as concrete. And, honestly, I don't recall. Peggy says it is concrete, so I don't think it is asphalt.

MS. RUSHING: I know the driveway is concrete, but I don't remember about that area there.

MS. LUEBBERT: I believe it is concrete. All my field notes indicate that it is.

MR. ZENNER: Mr. MacIntyre's site visit also, Ms. Rushing, defines that it is concrete as well.

MS. RUSHING: Okay.

MR. STRODTMAN: Commissioners --

MS. LUEBBERT: It does kind of look dark in that picture.

MS. RUSHING: Uh-huh.

MS. LUEBBERT: I think it is just the daylight was waning.

MR. STRODTMAN: Commissioner's additional questions for this speaker? I see none. Thank you, Ms. Luebbert.

MS. HENDREN: I'm Peggy Hendren, 407 West Phyllis. I'm sorry. I don't do this well. Okay? So this piece of property, I wanted to keep the property that I enjoy -- the lot. And I wanted -- I was widowed almost seven years ago. And being a landlord as a female widowed isn't good. And I've lost so much money. And I'm -- so it's an effort to sell it, which hasn't been happening very well -- but sell it to get rid of the burden that it is. I've actually broke more even this year not having someone in it and just having it sit to be sold. You know, when we first platted it, you know, I was agreeing -- I am agreeing with everything, you know, just so I can get this platting and get going. And then as we get going with this, the costs have just been amazing -- astronomical. Christina, I -- her bill is up to almost \$5,000 from going back between tree preservation plans and fireman turn around, which I understand the fireman needs to be able to turn around on the other property. You know, they've done it before without extra concrete, and all the sidewalk was looking at being up close to \$10,000. The thing -- the last thing the storm water, they wanted me to tear out the trees to do a storm water for some property I was adjoining nothing to -- I am just trying to give you an idea of what, you know, all this has been just from a layman's point of view, you know. The surveyor, you know, all makes sense. You know, I'm cutting off a piece of property, but I'm not changing anything. In fact, the whole idea is for me to plant trees and have bees and have a place for my grandkids and me to go over and do it. So I'm still -- as we go back and forth more now, more -- she's \$100 an hour, you know -- with engineering now back and forth again to try to come up with a way to make this sidewalk. I talked to Billy and Carolyn. They own the property that will be in the gaps place. They are having a great time with renters, but she's not widowed either, but they also own the property on the other side of the junkyard. They used to own the junkyard. They don't plan on doing anything with that. They're happy with things as they are now. I know Jackie next to me, he has no plans. That's going to go on to Sierra after him. I don't see any -- any development happening along the street. And so I just wanted you to keep in mind, you know, the burden financially and what it has taken, and, you know, I've still got it up for sale trying to sell it, and maybe it will sell in the spring I think. But that -- this continued process is massive. It's -- what it is, you know, I just wanted to sell off the house.

MR. STRODTMAN: Commissioners, any questions for this speaker? I see none. Ms. Hendren, good luck with selling your house and thank you.

MS. HENDREN: Thank you.

MR. STRODTMAN: Any additional speakers? As I see none, we'll go ahead and close the public input portion.

**PUBLIC INPUT CLOSED**

MR. STRODTMAN: Commissioners? Any comments, discussions, questions for staff, clarification, motion? Ms. Loe?

MS. LOE: It sound like Ms. Luebbert made some assumptions that have guided this project in a direction it doesn't necessarily need to take and that there may be some options available that should reduce the overall cost of the project. Do we have any assurance that the options that we have discussed tonight would actually be acceptable to the appropriate department?

MR. ZENNER: We do not have our BSD staff here, but what I can tell you is, is that in prior instances in where we have had no profile on a large street or a street and we have required sidewalk to be constructed, it has been an accepted practice that it is built at grade. So, I mean, the direction that the Council takes -- or the Commission recommends and the Council authorizes is that. Now, I mean, if you deny the request as it is proposed, it goes back basically into staff. Quite honestly, I am not -- I am a little bit perplexed myself as to why the options that I had just rattled off to you as it relates to things that can be done have not been discussed and explored.

MS. LOE: Uh-huh.

MR. ZENNER: In my capacity, I will be more than happy to talk with my comparable down in our building and site development, the manager of that division, and basically see if we cannot resolve the issue, if you choose to deny this in a manner that we have discussed this evening, which does not seem to be far from consistent with what we have done in other similar situations. There is an engineering component associated with it, there is no question. There will have to be some type of design plan submitted that is then attached to the contract, so there will be details. However, those details I think to the extent that Ms. Luebbert has referred to them as an elevation and other challenges probably can be overcome or at least reduced. You will still have engineering, but you won't have maybe the same amount. And I -- again, not knowing where our staff has been and what the pattern of drainage is out here, it may be that there is a concern, even if you would not expect that given the concrete exists here immediately adjacent to what appears to be an overlaid asphalt street. So the asphalt layer appears to be above the concrete, and as long as your concrete and your asphalt match and it is graded so it is draining away or down to wherever the swale is, there should be no design issue here that can't be overcome by the appropriate slope. It's again the distance and the capture that is between where the existing pavement edge is and potentially any type of elevation to the sidewalk. You don't want to capture water between those two spaces, especially if you're not building it right to the edge of pavement. And that may be part of what the issue is here that not looking at it from building and at grade or building it at grade may have been creating.

MS. LOE: Right.

MR. ZENNER: Without having them here, I can't answer that question for you, and that's not something that I believe Mr. MacIntyre got as we proceeded forward with this request either. So if you're inclined to support the denial, I believe we can, as staff that would be responsible for trying to facilitate this, make every effort to do so. Moving a recommendation for approval of the variance would obviously not result in a sidewalk being built here at any point in the future, so it's almost a Catch-22 situation. I would not suggest to you to just make a motion that it's either-or. It's either voted up, voted down. Let Ms. Hendren move on so she has the ability to do what she would like with her property, if that is your inclination.

MS. LOE: No. I believe staff's presentation on the need for a sidewalk in this area was supported and -- but I do believe there is some misinformation or miscommunication afoot here. And I think supporting the denial of the variance with the condition that clear direction be given to the applicant on what is acceptable and what concessions may be made, i.e., a 36-inch wide around the pole at grade, et cetera, needs to be conveyed in a concise manner to get the project along the right route. So if that sounds --

MR. ZENNER: Good motion.

MS. LOE: Okay. So I -- in the case of 17-16, move to deny the sidewalk variance from Section 25-41 -- 48.1 -- excuse me -- with the recommendation that communication be clarified on what is acceptable to the applicant.

MR. MACMANN: Second.

MR. STRODTMAN: A motion has been made by Ms. Loe and seconded by Mr. MacMann. Any -- Commissioners, any discussion on this motion? I see none. May we have a roll call, please, Ms. Secretary.

MS. BURNS: Yes.

**Roll Call Vote (Voting "yes" is to recommend denial.) Voting Yes: Ms. Rushing, Ms. Russell, Mr. Toohey, Ms. Burns, Ms. Loe, Mr. Harder, Mr. MacMann, Mr. Stanton, Mr. Strodman. Motion carries 9-0.**

MS. BURNS: Nine to zero, motion carries.

MR. STRODTMAN: Thank you, Ms. Burns. That motion for denial will be forwarded to City Council. Moving on to our last subdivision case hearing.