

**MINUTES**  
**PLANNING AND ZONING COMMISSION MEETING**  
**COLUMBIA CITY HALL COUNCIL CHAMBER**  
**701 EAST BROADWAY, COLUMBIA, MO**

**JULY 6, 2017**

**COMMISSIONERS PRESENT**

**Ms. Sara Loe  
Ms. Tootie Burns  
Ms. Lee Russell  
Mr. Anthony Stanton  
Mr. Dan Harder  
Mr. Brian Toohey  
Mr. Michael MacMann  
Ms. Joy Rushing**

**COMMISSIONERS ABSENT**

**Mr. Rusty Strodman**

**I) CALL TO ORDER**

MS. LOE: I will now call the July 6th, 2017 Planning and Zoning meeting to order. Ms. Burns, may we have roll call, please.

MS. BURNS: Yes. We have eight; we have a quorum.

MS. LOE: Thank you.

**II) APPROVAL OF AGENDA**

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

MR. ZENNER: No, there aren't, Ms. Chairman.

MS. LOE: Thank you. Can I get a thumbs up for approval on the agenda?

(Unanimous vote for approval.)

MS. LOE: Thank you.

**III) APPROVAL OF MINUTES**

MS. LOE: Approval of the minutes. I would like to request approval of the minutes from the July 22nd meeting. Everyone should have received a copy of those. Can I get a motion to approve?

MR. STANTON: I move to approve.

MS. RUSSELL: Second.

MS. LOE: Thumbs up on approval?

(Unanimous vote for approval.)

MS. LOE: Thank you.

#### IV) SUBDIVISIONS

Case # 17-144

**A request by Engineering Surveys and Services (agent) on behalf of Columbia College (owner), for approval of a final-minor plat of their main campus located at 1001 Rogers Street. The property is bounded by Wilkes Boulevard, Rogers Street, Range Line Street and Eighth Street, and contains 21.8 acres. The applicant is also requesting a variance from Appendix A.3(a) (Street Widths) of the Unified Development Code, which would require additional right-of-way dedications for both Rogers Street and Eighth Street.**

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

MR. ZENNER: Excuse me, Ms. Chairman, you are probably going to want to complete the actual statement there as well in the title. There is also a request for a variance from Appendix A.3(a), which is our street widths within the Unified Development Code, which would require additional right-of-way dedications for both Rogers and Eighth Street. That is also being considered as part of the request.

MS. LOE: All right. I just need to bring up a copy of the full report. The applicant is also requesting a variance from Appendix A.3(a) (Street Widths) of the Unified Development Code, which would require the additional right-of-way dedications for both Rogers Street and Eighth Street. Thank you for pointing that out. Can we get a staff report, please?

Staff report was given by Mr. Rusty Palmer of the Planning and Development Department. Staff recommends approval of "Columbia College - Plat 3" and the associated variance for right-of-way dedications on both Rogers Street and Eighth Street.

MS. LOE: Thank you, Mr. Palmer. Are there any questions for staff? Mr. MacMann?

MR. MACMANN: I have a point of order first. How would the Chair prefer to be addressed? Madam Chair? Ms. Chair? Just whatever you're comfortable with.

MS. LOE: Ms. Loe would be fine.

MR. MACMANN: Ms. Loe would be fine. Thank you, Ms. Loe. I do have a question for Planner Palmer. Revisiting the road variances for a second. Once these are approved, if I followed you correctly, Columbia College will dedicate a 25-foot half-width on all these streets?

MR. PALMER: Uh-huh.

MR. MACMANN: Okay.

MR. PALMER: I believe on the three -- on the two sides, where they own both sides of the street, it will be a full --

MR. MACMANN: Yeah. Full 50 --

MR. PALMER: -- fifty, and --

MR. MACMANN: So 25, 50 were applied?

MR. PALMER: Correct.

MR. MACMANN: What triggers -- well, currently, other than maybe a part of Rangeline, none of

those are built out, so to speak? What would trigger them meeting the 25-foot --

MR. PALMER: I'm not sure I understand --

MR. MACMANN: Okay. Let's go specifically to North Eighth there. Right now you said that's -- that whole right-of-way is, what, 32, 33 feet, whatever it is. Okay. So the half-- half-width there is 16, 17 feet. Right?

MR. PALMER: Right.

MR. MACMANN: Them dedicating 25 feet there, does that require them to do anything at any time?

MR. PALMER: If they were to redevelop, they would -- they would have --

MR. MACMANN: Redevelop along --

MR. PALMER: Along that frontage.

MR. MACMANN: Along that frontage.

MR. PALMER: Uh-huh.

MR. MACMANN: Okay. Now that it's all one plat, I'm going to get to my question. What counts as along that frontage? That is what my question is.

MR. PALMER: Uh-huh.

MR. MACMANN: I mean, that multi-use building is going almost dead center behind --

MR. PALMER: Well, right, and it's -- it's not going to -- it's not going to be impacted by any of those right-of-ways that --

MR. MACMANN: All right. That -- that, in and of itself, won't trigger that 25-foot barrier?

MR. PALMER: I don't --

MR. ZENNER: The --

MR. MACMANN: So now that it's all one plat, I just wonder how that works.

MR. ZENNER: The existence of the substandard street --

MR. MACMANN: Uh-huh.

MR. ZENNER: -- as it currently exists, is the responsibility of the City of Columbia for reconstruction or reimprov-- to improve. The dedication of the right-of-way, which is an aspect of the platting of the property allows us the ability to be able to -- if we choose as a municipality to expand that street. We have had a number of requests previously for waivers of street right-of-ways within the north central area, especially these northern streets that have functioned to move traffic effectively, but we have no plans to expand the street.

MR. MACMANN: This just precludes Columbia College to do anything within that 25-foot --

MR. ZENNER: Exactly. We're trying to make sure and preserve a corridor that would give us a 50-foot wide corridor to build within if we needed to expand the street, or would allow potentially, if you were to redevelop a portion of the site that would require a turn lane or some other type of --

MR. MACMANN: All right.

MR. ZENNER: -- improvement that would be triggered by trip generation to be accommodated within the right-of-way without potentially having to take any more out of the subject site. I --

MR. MACMANN: I just -- I wondered about the -- the practicality of it -- how that actually worked.

MR. ZENNER: All of their encroachments that they will have within the right-of-way, driveway approaches or anything else that would be there would still have to be permitted for through the City, and that would be all part of the building permit program, but they would be connecting to that existing substandard improved area that already is there. We, through capital budgeting, would expand the street at some point if necessary, but given how the traffic pattern operates around the campus and the improvements made in the Rangeline corridor which were done in cooperation with the City and the College, we don't have any indication at this point that there's anything needing to be expanded here as a result of the College following its campus master plan.

MR. MACMANN: All right. That's basically where I was going. I was wondering what our -- what their triggers were and what our triggers were. Thank you very much.

MS. LOE: Any additional comments for staff? Seeing none, even though this is not part of the public hearing portion of our meeting, if anyone in the audience would let -- care to speak on the subject, we would welcome that information. Please give us your name and address.

MR. REED: Good evening, Commissioners. My name is Tim Reed; I'm a land surveyor with Engineering Surveys and Services. I don't really have anything to add to the staff report, but I'd be happy to answer any questions you might have.

MS. LOE: Are there any questions for this speaker? I don't see any right now. Thank you, Mr. Reed. Discussion of Commissioners? Before we start, I failed to read the disclosure statement, so I would at this time like to ask any Commissioner who has had any ex parte prior to this meeting related to Case 17-144, please disclose that now so all Commissioners have the same information to consider on behalf of the case in front of us. Seeing none, comments of Commissioners? Mr. Stanton?

MR. STANTON: As it relates to Case 17-144, Columbia College Plat 3, final plat and variance, I move to approve -- I move to approve the Columbia College Plat 3 and associated variance for right-of-way dedications on both Rogers Street and Eighth Street.

MS. RUSSELL: Second.

MS. LOE: Thank you, Mr. Stanton, for the motion, and Ms. Russell for the second. Is there any discussion on this motion? Ms. Burns, may we have a roll call, please.

MS. BURNS: Yes.

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

MS. BURNS: Eight to zero, motion carries.

MS. LOE: Thank you, Ms. Burns. Motion for approval will be forwarded to City Council.

**Case # 17-157**

**A request by A Civil Group (agent) on behalf of Maddox and Robinson Investments, LLC (owner) for a waiver from Section 24-35, which requires sidewalks on property zoned commercial or multi-family and is located along an arterial or collector street, to waive the construction of approximately 60 feet of sidewalk located along Primrose Drive. The subject site is currently zoned R-MF (Multiple-Family Dwelling), and is located on the north side of Primrose Drive, approximately 500 feet east of Gardner Drive.**

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

Staff report was given by Mr. Clint Smith of the Planning and Development Department. Staff recommends denial of design adjustment to Section 29-5.1(d.2.i) and denial of the request to waive Section 24-35 in order to waive the sidewalk requirement for the subject site.

MS. LOE: Thank you, Mr. Smith. Are there any questions for Mr. Smith?

MR. HARDER: I have a question.

MS. LOE: Mr. Harder?

MR. HARDER: Is there only parking allowed on one side of Primrose or is it allowed on both sides?

MR. SMITH: I don't know if I know the answer to that question. Generally, collectors there is limited parking on that, but I would have to check with Public Works. We did not -- I did not observe any cars parked on the collector, so I'm going to guess that there is no parking allowed on that collector.

MR. HARDER: Thank you.

MS. LOE: Any additional questions? Seeing none. Again, this is a subdivision project, so even though it is not part of our public hearing portion, we -- if there's anyone in the audience that would like to speak on this matter, we would welcome any information you might have that might help our understanding

MR. GEBHARDT: Thank you. My name is Jay Gebhardt; I'm a civil engineer and a land surveyor with offices at 3401 Broadway Business Park Court with A Civil Group. I have some pictures I would like to hand out. If you would please take one of each and pass it down the line, I would appreciate it.

MR. SMITH: And, Jay, I have the exhibit that you submitted up too, if you wanted me to pull up anything out of that.

MR. GEBHARDT: All right. Thank you. And thanks for the staff for the report. Gosh, I hate sidewalk variance requests. I hate to come here and ask for them. But when we started this project, I saw this tree and I remember it from when I was a kid riding the school bus. It's -- it's a significant tree. It's 72 inches at the base, and it has two branches -- one 48 inch and one 36 inch. And if this tree had been like in the middle of this when we were building sidewalk on both sides of it, I would have looked at this differently too, but our request is to build all the sidewalk except the last 60 feet. And that last 60 feet is what impacts the tree. And I don't want to be responsible for hurting this tree. And that is why we are

requesting this. The CIP does show this as an unfunded project and it shows the sidewalk on the north side, but having experience designing sidewalks for Public Works when I worked for the City, I know when we get -- you get into the design of this there is going to be a lot of considerations and input from the neighbors and that. So to say that the sidewalks are all going to be on the north side because the majority of it is on is a good plan to start with, but that's just the starting point of -- of any plan. I've also talked to Jake Ray with Public Works who is the traffic engineer to see if there's any request for traffic calming projects on Primrose. It appears there are -- have been requests and those are going to be taken up to the City Council later this year or the beginning of next year. That could have an impact too because a mid-block crosswalk and a calming -- traffic calming right in that sharp curve kind of where our driveway is -- could eliminate and allow a switch of the sides. So the pictures I handed out I think are important because -- as engineers we're not photographers, but we were taking pictures of the base and the sidewalk and the drainage and all that stuff, but it -- it's just a really impressive tree, and the second picture I handed out shows the -- you know, the sidewalk is pointed right at it. There's -- there's really no way to do that. And then the aerial photo kind of shows you the mass of the tree in the wintertime. So not to say -- the City staff, the arborist, and that, but construction is a messy business. We don't get in with hand shovels and dig -- build sidewalks with little, you know, shovels and stuff. They're going to bring a machine in. They're going to excavate this. They're going to compact the soil all around it. We've got to extend the pipe under the road and bring fill in for that. And I can almost guarantee you, we will not kill the tree when we first get there or right after we leave, but I -- I know we'll have an impact on that tree in three or four or five years down the road. I know it's a Sycamore and it probably was a wee tree that just grew up in the right-of-way and no one ever mowed it down, and that's why it's here. But it is, you know -- I think it is worth saving. And I think that's the purpose of asking for variances really. I mean, we have all these rules that -- hardship and not being self-created and that, but it's to allow people like you to look at a situation like this and say does it make sense for 60 feet of sidewalk -- to end 60 feet shorter to take this tree out. And my clients are willing to give a payment in lieu. We did an estimate of \$10,890, something like that, and we're willing to cut a check to the City for that amount. This isn't about money or trying to save money. They really -- no one wants to go to that neighborhood and say we're going to cut this tree down because it's kind of a -- it was always kind of the gateway. We always waited for the bus to hit that limb when we went through because it was just always there. But -- so at any rate it's not about money. If there's a way to make a payment in lieu, we're willing to do that. We can negotiate that with the City Council, if that's appropriate. And at that, I would be glad to answer your questions or I can keep talking.

MS. LOE: Are there any questions for this speaker? Mr. MacMann?

MR. MACMANN: Thank you, Ms. Loe. Hello, Mr. Gebhardt. How are you?

MR. GEBHARDT: I'm good.

MR. MACMANN: You had mentioned that Primrose was on traffic calming, and, I'm sorry, I don't remember all 63 of those off the top of my head. Do you know where it is on that list?

MR. GEBHARDT: No, I do not. And Jake said that it's something that's not -- may come up this year to the City Council or maybe at the beginning of next year before it does. So if that give you an idea of --

MR. MACMANN: That should be --

MR. GEBHARDT: -- priority --

MR. MACMANN: -- top ten, fifteen, if that's -- maybe five or ten, if it is that high. I honestly don't know. Okay? I'm just trying to get a -- a -- trying to get some understanding here. And it's on the six to ten year CIP, which is unfunded.

MR. GEBHARDT: Unfunded.

MR. MACMANN: I currently don't have any more questions for Mr. Gebhardt, but I might have some later.

MS. LOE: Thank you, Mr. MacMann. Any additional questions for this speaker? I don't see any.

MR. GEBHARDT: Thank you.

MS. LOE: Thank you, Mr. Gebhardt. Discussion of Commissioners? Again, let's go through the disclosure. So at this time I would like to ask any Commissioner who has had any ex parte prior to this meeting related to Case 17-157, please disclose that now so all Commissioners have the same information to consider on behalf of the case in front of us.

MS. RUSHING: I don't have a disclosure. I just have --

MS. LOE: No disclosures.

MS. RUSHING: -- a comment.

MS. LOE: Okay. Seeing none. Ms. Rushing, did you have a comment?

MS. RUSHING: I -- I do. I understand that -- their concern for the tree. As a property owner, however, were this tree on my property, I think there would be a need for significant work on the tree in order to preserve it as a beautiful tree. It's -- it's not in that shape right now. And as someone who walks a lot in this City, I can tell you that it's really disconcerting to have to step off of a sidewalk into the street. And so I would not be in favor of granting this variance.

MR. HARDER: I have --

MS. LOE: Mr. Harder?

MR. HARDER: I would also -- I would have to agree with that as well too. I don't, you know, live in the area, and it, you know -- to just, you know, go around it, Primrose has some pretty fast drivers sometimes. They use it as kind of a cut road. I -- I would prefer to have a sidewalk there as well too. It's a tough choice though, I will admit.

MS. LOE: Mr. Toohey?

MR. TOOHEY: I've got a question for staff. So since I've been on Planning and Zoning, this is a first time anyone has offered to do a payment in lieu of. So would they -- if that was to be approved, would they negotiate that amount at the Council level?

MR. SMITH: I -- I will take the request to Council. Right now the UDC doesn't have any provisions for us recommending fee in lieu. The only exception to that is the policy statement that we have from Council on sidewalk variances on unimproved streets, so streets without curb and gutter. So this one has curb and gutter, so we don't necessarily have any -- any direction on that. So we'll take their estimate of cost that they supplied for what it would cost to finish the sidewalk, we'll take it to Council, and we'll make sure and explain that they're offering that, but it will be Council's decision whether or not to accept that and how it would be appropriated, in my opinion anyway.

MS. LOE: Mr. MacMann?

MR. MACMANN: I have a follow-up with staff, if I may. Have any of these neighbors addressed this tree issue or in any way addressed this project?

MR. SMITH: I have received no correspondence, but this type of project would not have warranted any type of --

MR. MACMANN: Public information?

MR. SMITH: -- public information going out to residents. So they would not be aware to the -- the variance being requested unless they keep up with the agenda on the Planning and Zoning.

MR. MACMANN: As all good citizens should.

MR. SMITH: Good citizens should.

MS. LOE: Mr. Stanton?

MR. STANTON: This is for staff and even for A Civil Group -- whoever can answer it best. What's the condition of that inlet box there? Does it go into a creek? Does it go into a pipe? What --

MR. SMITH: I'll let Mr. Gebhardt address that and if there is any follow up, I'd be happy to answer that.

MR. GEBHARDT: Yes. So this creek crosses Primrose from the north to the south, and there's a pipe just on the other side by that tree that leads into this inlet, and the water drops in the inlet and when it goes under the road, and there's another inlet, and then it goes and it crosses under. So it's a fairly significant sized pipe, but it's not -- I think it's a 36 or a 48, something of that size.

MR. STANTON: So this tree hasn't affected that inlet box at this point at all?

MR. GEBHARDT: No. No, it hasn't. There is a flume next to this tube --

MR. STANTON: Yeah, I see that.

MR. GEBHARDT: So I don't think there's any drainage -- this isn't a critical area on the drainage plan.

MR. MACMANN: So there's -- if I may just real quickly. There's no flooding going on?

MR. GEBHARDT: Not that I'm aware of, no.

MR. MACMANN: Staff, are you aware of any backup flooding storm water issues?

MR. SMITH: Not that I'm aware of. I would add that our -- our staff -- our site development staff did indicate that the site plans would probably be -- need to be revised to have a -- a different type of inlet

at this location given the -- the current condition of it, so I think that is added in the estimate of cost. So I think that inlet is meant to be replaced.

MR. STANTON: With or without the variance?

MR. SMITH: If the sidewalk is constructed, the inlet will need to --

MR. GEBHARDT: If we build the sidewalk --

MR. SMITH: -- replaced.

MR. GEBHARDT: -- we're going to have to tear that part of the street out and replace the inlet --

MR. STANTON: Replace the inlet --

MR. GEBHARDT: -- with a Type M Inlet, which sets back from the curb. It doesn't sit in the curb like that, and which will impact the tree even more. So basically if we build a sidewalk, we will remove the tree. That's what we'll almost have to do to do that. And I have not talked to the neighbors because I didn't want to play that game with you guys where I load a bunch of neighbors down here to you all, but that would probably be my next step with City Council is to talk to some neighbors, and if they feel strongly about it, to have them come down and support the variance.

MR. STANTON: But you don't see any structural issues with that tree being there in the future or anything else?

MR. GEBHARDT: Reasons why --

MR. STANTON: And for instance --

MR. GEBHARDT: -- might have to be removed in the future? Other than it dying, no, I don't. I don't see it impacting the infrastructure, except sidewalk, of course -- sidewalk.

MR. STANTON: Thank you.

MR. GEBHARDT: Thank you.

MS. RUSSELL: I have a question for staff, and maybe Jose. I mean, if the City comes along and wants to do a sidewalk -- and the whole neighbor -- and does the tax for the sidewalk and the City Council has already accepted a fee in lieu of, what would happen to this tree? Would they go around the tree? Would the tree be destroyed?

MR. SMITH: If the sidewalk is installed on the north side, the City would -- would almost 100 percent positive remove that tree.

MS. RUSSELL: Whether there's been a fee in lieu of to save it or not?

MR. SMITH: Correct. The fee in lieu would be to absolve them from constructing it now, and the City would accept the responsibility -- financial responsibility for building this section --

MS. RUSSELL: For it later --

MR. SMITH: -- in the future.

MS. RUSSELL: Okay.

MR. STANTON: And it offsets the cost.

MS. RUSSELL: Okay.

MR. ZENNER: And -- and if I -- if I -- I would like to add. I'm in 24-35 right now of the City Code. And I'm going to read Paragraph C, specifically as it relates to this request. I believe Mr. Smith indicated that the UDC provision prohibits an individual -- or requires that no certificate of occupancy may actually be issued for a building along a collector or an arterial. That's referred to in Paragraph B of 24-35. But Paragraph C of 24-35 reads upon application of the property owner, the City Council shall waive the requirement of this section which refers to sidewalk construction being required along a collector or an arterial provided plans for a construction of a sidewalk if the Council determines that the sidewalk is not needed or that the impact of the proposed development does not justify the requirement that the sidewalk be constructed or that there is a reasonable likelihood that the sidewalk would have to be removed and reconstructed in the near future. The granting of the waiver shall not affect the power of the City Council to later install sidewalk adjacent to the property or levy special assessment against the property for construction of the sidewalks. This particular section contains four paragraphs, A, B, C and D. D are the criteria that Mr. Smith's report went over. C basically goes over what the Council's authorization was, and in this particular section, there is no indication of a -- a -- of a fee in lieu of being an available option. Our sidewalk policy standard that we have for unimproved streets allows for that. This is not an unimproved street. Unimproved streets are those that do not have curb and gutter. This is an improved street. It's an improved street that lacks sidewalks. We've run into this scenario on unimproved roadways where a fee in lieu of -- i.e. Old Plank Road, where a fee in lieu of was accepted to waive sidewalks for --

MR. SMITH: Tie-in.

MR. ZENNER: -- tying in sidewalks where -- the bottom of the hill for -- I can't remember the name of the project now. But we -- we've had it for that instance. When we deal with sidewalks that have improvements, in this particular section, which is where we would require sidewalks as part of the general Code. There is nothing that I am seeing here that indicates that the fee in lieu of is an option for the Council. Paragraph B indicates -- and this is how you can get a certificate of occupancy for your construction along a collector or an arterial without installing your sidewalk. It says that you still have to have plans that showed it, but that the property owner has provided a bond, letter of credit or other instrument acceptable to the Director of Public Works guaranteeing construction of the sidewalk within six months of issuance of the certificate of occupancy. Again, it does not relieve -- 24-35 does not relieve -- doesn't grant relief by payment in fee. So when we ask about a payment in fee or the applicant is willing to pay one, there is nothing within our Code -- within the two sections quoted as part of this request that would provide an option for that. And that is, I believe, why Mr. Smith pointed out correctly that we will present to Council what the applicant's proposal is. There is no basis in the written regulation, however, that indicates that that is part of the authorization, part of a way of waiving responsibility. Now in both, obviously, the tax billing option still exists. So we can always come back and we can always tax bill. Last time we attempted to tax bill property, I -- I think we were advised by our then counsellor, no, we're not going to do that. So it's very rare that we tax bill people for construction of sidewalks. That is why it is part

of the capital budget, and when we do our capital budgeting, it's either part of a bond referendum or it's -- we've got money from some grant to do a sidewalk somewhere. That's probably why this shows up in six to ten and the CIP is unfunded because we haven't been able to identify that yet.

MS. RUSSELL: So if we were to make a motion, we could or could not add as part of the motion a recommendation for the City Council to consider a fee in lieu of?

MR. ZENNER: I would say that you are more than welcome to add that as part of your motion for Council's consideration, but it is not a given within the regulatory standards as they are written.

MS. RUSSELL: Okay. Thank you.

MS. LOE: Just a point of clarification to follow up on Ms. Russell's. So in special assessments, that is defined strictly as tax assessments?

MR. ZENNER: The property and -- it reads install sidewalks adjacent to the property and levy special assessments, which would be tax assessment against the property for that purpose.

MS. LOE: Thank you. Mr. MacMann?

MR. MACMANN: Question for Mr. Zenner. We vote unanimously yes or no, this goes on the consent agenda. Right?

MR. ZENNER: Unless you otherwise instruct us, and then we can request that --

MR. MACMANN: We vote it seven to one, they automatically discuss it. Right?

MR. ZENNER: Yes. Seven to -- if it's 75 percent of the Commission voting in favor, an item will -- of the members present, it will go on to consent, unless we are asked otherwise. We -- we control placement of an item on the agenda as we produce it or the public does -- public or Council.

MR. MACMANN: I'm just seeing where it's going to end up on -- on the agenda.

MR. ZENNER: If you vote unanimously to approve or to deny, other direction, it would end up on the consent agenda --

MR. MACMANN: Consent agenda.

MR. ZENNER: -- unless you otherwise want Council to have discussion on the item. And that depends on how you frame your motion. We would be -- we're more than happy to indicate when we forward the request to Council for their consideration that it be placed under old business after introduction. This is an ordinance because we are -- it is a request to grant a design modification. Therefore, it requires two readings for it to occur, and that would mean it would be introduced, no discussion, and then second reading, it would be under old business.

MR. MACMANN: Thank you, Mr. Zenner. I just -- just to comment on this for the rest of us here, I understand Mr. Gebhardt's plight. I would like to save the tree too, but it's really dangerous, and we don't have -- I don't think we have the regulatory ability to grant Mr. Gebhardt what he requests. City Council could do that; legal could do that at the direction of City Council. But I don't think we have that -- we have the ability to make a recommendation, certainly. But I don't think we have the ability to strike a deal, so to speak.

MS. BURNS: Oh, yeah.

MR. MACMANN: We could recommend a deal be reviewed. That's -- I'm -- I just want to make sure it's discussed by Council. That's why I asked that particular question.

MS. LOE: Mr. Stanton?

MR. STANTON: I don't see any legal ground at all to make a deal based on the ordinance or -- so it's kind of off the table for real.

MS. LOE: Ms. Burns?

MS. BURNS: I think we're going to need to move forward with this. I feel the pain having just lost some very significant trees due to a public project, and I have gone through the phases of anger, disbelief. Now I'm in the opportunistic. And so I'm thinking about landscaping options for what you could do here if indeed because I feel like the sidewalk is a greater case. Trust me, I hate the idea of cutting down this tree, but I don't think -- I think we have to look at the greater good of the sidewalk. And as far as consent agendas and things like that, I think we need to focus on this particular project and let the City Council do its job. And if a member wants to pull it off the consent agenda, we'll worry about that at that time.

MS. LOE: Ms. Russell?

MS. RUSSELL: I'd like to make a motion. In the case of 17-157, I move that we deny the design adjustment to Section 29-5.1(d.2.i) and denial of the request to waive Section 24-35 in order to waive the sidewalk requirement for the subject site.

MS. RUSHING: Second.

MS. LOE: Motion by Ms. Russell; second by Ms. Rushing. Any discussion on this motion? Seeing none. Can we get a roll call, please.

MS. BURNS: Yes.

MS. RUSHING: Excuse me. A point of order. She -- the motion was to deny. Correct?

MS. BURNS: The motion is to deny.

MR. STANTON: Deny the variance.

MS. RUSHING: So if you're voting no, you would grant the variance. Okay.

**Roll Call Vote (Voting "yes" is to recommend denial.) Voting Yes: Ms. Loe, Mr. Harder, Ms. Rushing, Ms. Russell, Ms. Burns. Voting No: Mr. MacMann, Mr. Stanton, Mr. Toohey. Motion carries 5-3.**

MS. BURNS: Four to three, motion -- five to three, motion carries.

MS. LOE: Mr. Smith?

MR. SMITH: And the motion is to deny the variance.

MR. ZENNER: Based on that vote, so we're all clear on this. This goes back to Mr. MacMann's point. It will be under old business on the Council agenda.

**V) PUBLIC HEARING**

**Case # 17-155**

**A request by Allstate Consultants, LLC (agent) on behalf of Arrowhead 111, LLC (contract purchaser) for the rezoning of approximately 24.19 acres of land from A (Agriculture) to R-1 (One-family Dwelling). The subject site is currently undeveloped and is approximately 1200 feet north of Sinclair Road on the east side of West Arrowhead Lake Drive.**

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

Staff report was given by Mr. Pat Zenner of the Planning and Development Department. Staff recommends approval of the requested zoning change to R-1.

MS. LOE: Are there any questions for staff? Seeing none. At this time we would like to open up the floor to the public.

**PUBLIC HEARING OPENED**

MS. LOE: If anyone would like to speak, please come forward to the podium and state your name and address for the record.

MR. STATES: Good evening, Commissioners. My name is John States. I live at 2925 West Arrowhead Lake Drive. I am one of the members of the development company that is seeking this annexation and rezoning -- two separate cases here. Basically, we're -- our contract purchasers, as Pat mentioned, for -- with the University of Missouri as well as contract holders on a piece of -- that is yet to come on the -- on the annexation. So I'm here to answer any questions. I think that the way we've went about this in bringing it up to the new UDC Code, it works out well, and it's consistent with the neighborhood. I do have a letter from the president of the HOA I would like to present. In doing this we had to file a -- we had to file a new amended covenant and restrictions which was voted on and approved by the HOA and had to have signatures and record that document -- so just as an evidence that the neighborhood supports it. I'd be happy to answer any questions.

MS. LOE: Waiting a minute while your handout got around. Are there any questions for Mr. States? Mr. MacMann?

MR. MACMANN: Thank you, Ms. Loe. Is the sale contingent upon the rezoning?

MR. STATES: No.

MR. MACMANN: It's not anywhere in the contract? Totally freestanding?

MR. STATES: Yes, sir.

MR. MACMANN: All right.

MS. LOE: Any additional questions for this speaker? I don't see any at this moment. Thank you, Mr. States.

MR. SHORR: Good evening, my name is David Shorr. I live at 3045 West Arrowhead Lake Drive. There is an email in your packet, I believe, with regard to my family's position regarding this subdivision -- or this improvement. We are the only residential adjacent property owner to this project.

We immediately about it. We are -- if you look at your drawing, we are immediately south of the subject and south of the annexation request. We wholeheartedly support this development. It's been completely vetted with regard to our subdivision. It has been vetted and introduced in our home by the proposed developer. And we would encourage your accepting it. Thanks.

MS. LOE: Thank you --

MR. SHORR: Questions?

MS. LOE: -- Mr. Shorr. Any questions for this speaker?

MR. SHORR: Thank you all.

MS. LOE: I don't see any. Thank you.

### **PUBLIC HEARING CLOSED**

MS. LOE: Commissioners, comments? Before we get started, I want to read -- ask Commissioners if they've had any ex parte prior to this meeting related to Case 17-155, to please disclose that now so all Commissioners have the same information to consider on behalf of the case in front of us. I see none. Any comments? Mr. -- well, Ms. Rushing.

MS. RUSHING: We're probably doing the same thing. I make a motion to approve the request by Allstate Consultants on behalf of Arrowhead LLC for the rezoning of approximately 24.19 acres of land from A (Agriculture) to R-1 (One-Family Dwelling). The site is currently undeveloped and is located approximately 1,200 feet north of Sinclair Road on the east side of West Lake [sic] Arrowhead Drive.

MS. LOE: Second?

MS. RUSSELL: Second.

MS. LOE: Thank you. Motion by Ms. Rushing; second by Ms. Russell. Any discussion on this? Seeing none. Can I get a roll call, please.

MS. BURNS: Yes.

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

MS. BURNS: Motion carries eight to zero.

MS. LOE: Thank you, Ms. Burns. Recommendation for approval will be forwarded to City Council.

### **Case # 17-156**

**A request by Arrowhead Lake Estates Homeowners Association, Inc. (owner) seeking permanent City R-1 (Single-family Dwelling) zoning upon annexation of approximately 2.52 acres of land into the City of Columbia corporate limits. The subject site is currently zoned Boone County A-2 (Agriculture) and is currently undeveloped. The subject site is approximately 1200 feet north of Sinclair Road and adjacent to the east side of West Lake Arrowhead Drive.**

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

Staff report was given by Mr. Pat Zenner of the Planning and Development Department. Staff

recommends approval of R-1 zoning as permanent City zoning upon annexation.

MS. LOE: Any questions for staff? I have a question, Mr. Zenner. I realize the -- this annexation is a little bit unusual in that no development per se is really being proposed on the parcel being annexed. But we often do discuss the urban service area when we're talking about annexation, and I was wondering if you could just comment on how it relates to this one.

MR. ZENNER: This entire project is within the urban service area. Lake Arrowhead Estates is considered inside the urban service area as well. And that actually -- it's a very good question that you asked because we mentioned it in our Council reporting that we provide to Council, because it's the same question they often ask. This whole area, everything over to Scott Boulevard, is actually part of the urban service area, and then what we have south of Route K, the Gates and the other -- Barcus Ridge Development we have down there is considered part of the urban service area as well. We are at a capacity point at this juncture with development in this particular area. From a -- we have very limited sewer connections left. A development that is actually occurring off of South Nursery School [sic] Road, which is on the other side of Barcus Ridge where Scott Boulevard comes into Route K, is actually being serviced by Boone County Regional Sewer District by approximately 10,000-linear-foot extension of force main to a County lift station because the City's capacity is almost fully exhausted in this particular quadrant of the City. And without significant relief sewer construction, additional development will be limited at this point based on our -- the available taps. This particular project though, the four lots, the annexation of the land area which is normally done for the purposes of being able to get access sewer, when combined with the 24 acres, the four lots that will be created do not create an impact beyond what the system that exists today can handle. Those four additional taps are available, and have been discussed with our sanitary-- our utilities folks in the sanitary division to ensure that that was in fact the case before the applicant proceeded forward, both with the annexation request as well as with the rezoning action on the adjacent acreage. So we have been -- we've had that confirmed by our utility staff that the ability to connect exists without any decrease in the capacity. I mean, it will obviously absorb four additional taps, but it does not pop the lids on our sewer mains by adding these four houses.

MS. LOE: Thank you. Any additional questions for staff? Seeing none, I would like to open up the floor to public comment.

#### **PUBLIC HEARING OPENED**

MS. LOE: If anyone would care to speak, please come forward and state your name and address.

MR. STATES: John States, 2925 West Arrowhead Lake Drive. The annexation, as Pat said, is -- is a necessity to be able to tie into the sewer, and I'm here to answer any questions.

MS. LOE: I see none. Thank you, Mr. States. Any additional speakers?

#### **PUBLIC HEARING CLOSED**

MS. LOE: Comments by Commissioners? And one final time, if anyone has had any ex parte

prior to this meeting related to Case 17-156, to please disclose that now so all Commissioners have the same information to consider on behalf of the case in front of us. None. Any additional comments on Commissioners -- from Commissioners? A motion? Mr. Stanton?

MR. STANTON: As it relates to Case 17-156, Arrowhead Lake Estates Home Owners Association Incorporated permanent zoning, I move to approve the -- I move to approve R-1 zoning as permanent City zoning upon annexation.

MR. MACMANN: Second.

MS. LOE: Thank you. Motion by Mr. Stanton; second by Mr. MacMann. Any discussion? Seeing none. May I have a roll call, please.

MS. BURNS: Yes.

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

MS. BURNS: Eight to zero, motion carries.

MS. LOE: Thank you. Recommendation for approval will be forwarded to City Council. That closes all our cases.

#### **VI) COMMENTS OF THE PUBLIC**

MS. LOE: Are there any comments of the public?

#### **VII) COMMENTS OF THE STAFF**

MS. LOE: Any comments of the staff? It's been a while.

MR. ZENNER: You -- you expect me to have taken a few weeks off and not have comments? I'm actually warmed up now. I've rested and I could -- I could give you everything I knew. We do have another meeting coming up July 20th, as we have stated earlier. And we do have several items on that agenda, and they're not carryover items, actually. So we have two subdivision requests and we have two public hearings on the actual agenda for July 20th. Stoney Creek, this is a final plat that is going to be, when it comes to you, consistent with a revised PD plan that currently is being reviewed internally. We have, as I had mentioned, Case 167, which is the Lake Arrowhead Estates four-lot plat that is related to both the annexation and the permanent -- the annexation and the rezoning request on the combined 26 acres. And then two public hearings -- The Bisk Coffee LLC request. This is a planned development district rezoning request, along with a development plan. This is one of the first projects that we have had come forward under the new UDC that has to follow the -- the principal of having an actual development plan, live user associated with the entitlement, which would be the zoning side of it. And then the Sidra subdivision PD plan as well. As many of you are aware, obviously when we talk about Stoney Creek, you probably know where the hotel is and where the Waffle House is. Well, this is the property that is between the two that is currently undeveloped. It is proposed to be divided into two lots, one for a development and then one for future development. Immediately, of course, to your right here on the screen, you have the Lake Arrowhead Estates acreage. This is a combined acreage of what is shown as A-2, which would then

be both the half of the A-2 piece that you see on the left and then the highlighted parcel that says subject tract. That would be the combined roughly 26-and-a-half acres. And then our two rezoning requests, our Bisk LLC Coffee Shop. That is right at the corner of Forest and Providence. A Q Beauty Supply is what is immediately to the south of that, and you'll notice a dashed line within the darkened red area. That is actually an existing residential lot that is being proposed to be combined with the currently frontage zone MOF parcel and made into a planned district. And then the Sidra Subdivision, which this is what was mentioned by Mr. Smith this evening off of Primrose. This is the other project that would, should it be approved, have sidewalk constructed along not only this portion of Primrose, it would have then the sidewalk constructed along North Stadium as well as it would have sidewalk constructed along the cul-de-sac or the court that it has frontage on on the west. So those are your four projects for the July 20th agenda, and as we had discussed this evening in work session, our August 10th agenda will be a doozy. So if you do know or you have now decided you will take vacation, please let me know as quickly as possible. We will probably end up having seven, I believe -- seven to ten projects on that agenda, and there is a pretty good mix. We will have a couple of annexation, permanent zonings. We will have a rezoning or two request, and then I believe also have a couple of planned district plans that will be on that agenda. So it will be an interesting meeting, but -- and we will discuss in work session some of our unresolved issues that occurred while I was away. Planned district zoning and the criteria associated with that will be one of our topics, and we will have another general business topic that we will be discussing as well. With that, that's all I have to offer. I thank you very much for your attention and your participation this evening.

MR. CALDERA: Do you mind if I add something?

MR. ZENNER: And I believe Mr. Caldera has something to add.

MR. CALDERA: Commissioners, I apologize for adding a last minute thing, but in regards to the denial of the variance earlier, there was some confusion as to how to frame the motion, and -- you know, how I was voting, you know, what that -- what impact that would have. Going forward, just a suggestion, you can suggest a motion or put forward a motion in the affirmative and vote against it. So a motion to approve the variance, and then the person who makes that motion can still vote no against that motion. That would probably help with some of the confusion going forward.

MS. LOE: Thank you. A good suggestion. Thank you for the comments.

#### **VIII) COMMENTS OF THE COMMISSION**

MS. LOE: Any comments of the Commission?

#### **IX) ADJOURNMENT**

MS. RUSSELL: Move to adjourn.

MS. LOE: Do I have a second?

MS. BURNS: Second.

MS. LOE: Thank you.

(The meeting adjourned at 8:25 p.m.)

(Off the record)