

**AGENDA REPORT  
PLANNING AND ZONING COMMISSION MEETING  
March 18, 2021 (revised)**

**SUMMARY**

A request by Crockett Engineering (agent), on behalf of Michael M. Menser Properties, LLC (owners), for approval of a replat of 0.38 acres and design adjustments from Sections 29-5.1(f) and 29-5.1(g) of the Unified Development Code relating to lot frontage, lot shape, and dedication of public utility easements, respectively. The subject property is addressed as 1009-1021 E. Broadway. The purpose of this request is to divide the existing single lot into two, to facilitate the division of the existing improvements into individual ownership. **(Case # 90-2021)**

**DISCUSSION**

The applicant is seeking to replat the 0.38-acre property on the north side of Broadway, just east of Tenth Street addressed as 1009-1021 E. Broadway and improved with the Menser Building and Buchroeder's Jewelers. The applicant intends to separate the Buchroeder's store from the Menser Building to facilitate a transfer of the Buchroeder's property. Due to a number of site factors, the applicant is also seeking approval of three design adjustments, as outlined below.

**Design Adjustments**

***Section 29-5.1(f)(1)(v)***

This section of the UDC states that lots in mixed-use districts such as the M-DT (Mixed-Use Downtown) are not to be created with protrusions, extensions, or stems of less than 30 feet in width. The proposed plat includes such a protrusion encompassing the Buchroeder's building, which is only 16 feet in width. The applicant has provided evidence that the two subject buildings are separate structures as defined by the building code. The block is fully built-out in this location, with a solid mass of buildings over the bulk of the lots with no side yard setbacks. Staff agrees that the design adjustment is needed to address a unique feature of the site and would not impact neighboring properties or the public health, safety, or welfare.

***Section 29-5.1(f)(1)(iii)(B)***

Similarly, the UDC states that tier lots may be permitted only on previously unplatted lots, pursuant to a number of conditions which include limited access due to extreme topographic conditions, the stem of the tier lot being no less than 20 feet or greater than 59 feet in width, and that waiving the requirement must not endanger public health, safety, or welfare. Given the Buchroeder's business extends through multiple adjacent buildings between Broadway and the alley to the north, this lot arrangement is the only feasible means of dividing the property to facilitate the internal business operations without creating further need for design adjustments or creating access issues. While the request does not meet the first two considerations of the section, Staff believes the relief requested is appropriate, due to the unique layout of the existing buildings (each 80+ years in age) on the property.

***Section 29-5.1(g)(4)***

The UDC requires provision of public utilities to lots in accordance with the standards and specifications adopted by the City. Additionally, a 10-foot wide easement for such public utilities is required along all street rights-of-way at the time of platting. In this location, however, due to the location of the structures on the edge of the right-of-way, no space exists for such an easement. A conflict on this matter exists in the code, as the UDC requires all M-DT buildings to be constructed within 24 inches of the right-of-way line. Also, construction practices in the downtown have resulted typically in all utilities being located within the right-of-way, generally under the sidewalks. The requested design adjustment will not

negatively impact neighboring properties, nor will it be a detriment to the public health, safety, or welfare. As such, this design adjustment is also supported by Staff.

The applicant initially sought a fourth design adjustment from the provisions of *Section 29-5.1(c)(7)(iii)*, which requires dedication of additional half-width right-of-way for the alley along the site's northern boundary. The requested adjustment was sought to modify the amount of additional right of way that would be dedicated to only be given along Lot 1A and have it entirely waived along the boundary of the existing Buchroeder's Building (Lot 1B) to avoid making the Buchroeder's Building a legal nonconformity. The case was tabled at the March 18, 2021 Planning Commission hearing to allow staff and the applicant to explore options to address these concerns.

Since tabling, the applicant and staff have resolved their concerns relating to the Buchroeder's Building becoming a non-conformity following the dedication of additional right of way for the alley. Per the UDC, standard alley width is 20-feet; however, **new** alleys within the M-DT are preferred to be constructed within a 24-foot right of way as illustrated in Appendix A of the UDC. Given the developed nature of the surroundings and the fact that alley is not new, staff supports a 20-foot wide alley in this location which would ensure that adequate width is maintained for its service-corridor functionality. Furthermore, such a width is consistent with previously approved final plats in the downtown area which include most recently "The Backyard Final Plat," approved in August 2019. The existing alley is 15-feet wide and the additional 2.5-feet of half-width right of way has been shown on the attached replat.

As noted above, the initial concerns with the Buchroeder's Building becoming a non-conformity have been addressed. This was accomplished by the City and the applicant agreeing to the execution of an "estoppel certificate" upon approval of the replat by City Council. The certificate states the City represents and agrees that the nonconforming structure may continue in use as set forth in Section 29-6.5(b) of the City's Code of Ordinances, without being in violation of the City Code due solely to the existence of the nonconformity.

### ***Conclusion***

After considering the unique conditions associated with the property it is believed the applicant's requested design adjustments are appropriate. The plat has been revised to depict the required 2.5 foot alley right of way. Aside from the requested design adjustments, the plat meets all requirements of the Unified Development Code. Staff supports approval of plat and associated design adjustments.

### **RECOMMENDATION**

1. Approval of the design adjustment to Section 29-5.1(f)(1)(v), pertaining to lot protrusions of less than 30' in width,
2. Approval of the design adjustment to Section 29-5.1(f)(1)(iii)(B), limiting the creation of tier lots to previously unplatted property,
3. Approval of the design adjustment to Section 29-5.1(g)(4), requiring a 10' utility easement adjacent to the right-of-way, and
4. Approval of the final plat.

**Alternatively**, denial of any design adjustment would require denial of the final plat, as it is not compliant with the UDC.

### **SUPPORTING DOCUMENTS (ATTACHED)**

- Locator maps
- Final Plat
- Design Adjustment Worksheets

### **SITE CHARACTERISTICS**

<b>Area (acres)</b>	0.38
<b>Topography</b>	Generally flat
<b>Vegetation/Landscaping</b>	Structures & pavement
<b>Watershed/Drainage</b>	Perche Creek
<b>Existing structures</b>	4 commercial structures

### **HISTORY**

<b>Annexation date</b>	1826
<b>Zoning District</b>	M-DT
<b>Land Use Plan designation</b>	Neighborhood, Open Space/Greenbelt
<b>Previous Subdivision/Legal Lot Status</b>	Lots 3, 4, 5, 6, & 7 of Gordon's Subdivision, and Lot 2B of a Survey of Lots 1 & 2 of Gordon's Subdivision

### **UTILITIES & SERVICES**

Site is served by all City of Columbia utilities and services.

## **ACCESS**

<b>Broadway</b>	
<b>Location</b>	South side of site
<b>Major Roadway Plan</b>	Major Arterial, no additional ROW required
<b>CIP projects</b>	None
<b>Sidewalk</b>	Existing sidewalk

## **PARKS & RECREATION**

<b>Neighborhood Parks</b>	N/A
<b>Trails Plan</b>	N/A
<b>Bicycle/Pedestrian Plan</b>	N/A

## **PUBLIC NOTIFICATION**

All property owners within 200 feet and City-recognized neighborhood associations within 1,000 feet of the boundaries of the subject property were notified of this pending request on February 17, 2021. Twenty postcards were distributed.

Report prepared by Rusty Palmer

Approved by Patrick Zenner