

Introduced by _____

First Reading _____ Second Reading _____

Ordinance No. _____ Council Bill No. B 197-05

AN ORDINANCE

approving the Final Plat of Commerce Bank Plat 1, a minor subdivision; accepting the dedication of rights-of-way and easements; granting a variance from the Subdivision Regulations regarding right-of-way; authorizing a performance contract; and fixing the time when this ordinance shall become effective.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBIA, MISSOURI, AS FOLLOWS:

SECTION 1. The City Council hereby approves the Final Plat of Commerce Bank Plat 1, dated April 14, 2005, a minor subdivision located on the southeast corner of Brown School Road and Rangeline Street/State Route 763, containing approximately 4.50 acres in the City of Columbia, Boone County, Missouri, and hereby authorizes and directs the Mayor and City Clerk to sign the plat evidencing such approval.

SECTION 2. The City Council hereby accepts the dedication of all rights-of-way and easements as dedicated upon the plat.

SECTION 3. Subdivider is granted a variance from the requirements of Section 25-43 of the Subdivision Regulations so that additional street right-of-way shall not be required along Rangeline Street/State Route 763.

SECTION 4. The City Manager is hereby authorized to execute a performance contract with WBB Properties, Inc. in connection with the approval of the Final Plat of Commerce Bank Plat 1. The form and content of the contract shall be substantially as set forth in "Exhibit A" attached hereto and made a part hereof as fully as if set forth herein verbatim.

SECTION 5. This ordinance shall be in full force and effect from and after its passage.

PASSED this _____ day of _____, 2005.

ATTEST:

City Clerk

Mayor and Presiding Officer

APPROVED AS TO FORM:

City Counselor

PERFORMANCE CONTRACT

This contract is entered on this ____ day of May, 2005 between the City of Columbia, MO ("City") and WBB Properties, Inc. ("Subdivider").

City and Subdivider agree as follows:

1. Subdivider shall construct, erect and install all improvements and utilities required in connection with the final plat of Commerce Bank Plat 1 including sidewalks and all improvements and utilities shown on the plat and related construction plans, within 36 months after the City Council approves the plat.

2. If street, utility or other construction of public improvements should occur on or adjacent to land in the subdivision at the initiative of the City Council, as benefit assessment projects, Subdivider agrees to bear Subdivider's equitable and proportionate share of construction costs, as determined by such assessments.

3. No utility service connections or occupancy permits shall be issued to the Subdivider or to any other person for any structure on land in the subdivision unless and until all utilities and improvements have been constructed, erected and installed in the structure and upon the lot or lots on which the structure is situated in accordance with all applicable ordinances, rules and regulations of the City.

4. No occupancy permit shall be issued to Subdivider or any other person for any structure constructed on land in the subdivision unless the street and sidewalk adjacent to the structure have been completed in compliance with the City's Standard Street Specifications.

5. City may construct, erect or install any improvement or utility not constructed, erected or installed by Subdivider as required by this contract. City may perform such work using City employees or City may contract for performance of the work. Subdivider shall reimburse City for all costs and expenses incurred by City in connection with construction, erection or installation of improvements in utilities under this paragraph. Subdivider agrees to pay City all expenses and costs, including reasonable attorneys' fees, incurred by City in collecting amounts owed by Subdivider under this paragraph.

6. City shall not require a bond or other surety to secure the construction of the improvements and utilities required in connection with the final plat.

7. The obligations of Subdivider under this contract shall not be assigned without the express consent of the City Council.

8. The remedies set forth in this contract are not exclusive. City does not waive any other remedies available to enforce Subdivider's obligations under this contract or to recover damages resulting from Subdivider's failure to perform its obligations under this contract.

9. This contract is not intended to confer any rights or remedies on any person other than the parties.

IN WITNESS WHEREOF, the parties have executed this contract on the day and year first above written.

CITY OF COLUMBIA, MISSOURI

BY: _____
Raymond A. Beck, City Manager

ATTEST:

Sheela Amin, City Clerk

APPROVED AS TO FORM:

Fred Boeckmann, City Counselor

Subdivider : WBB Properties, Inc

BY: Ellen Kelly
Ellen Kelly, President

Source

William Watkins



Fiscal Impact

YES

NO

Other Info.

TO: City Council

FROM: City Manager and Staff 

DATE: May 27, 2005

RE: Commerce Bank Plat 1 – a final plat of a minor subdivision located on the southeast corner of Brown School Road and State Route 763/Rangeline, containing approximately 4.50 acres (Case 33-SD-05).

The proposed subdivision includes a request for a variance to Section 25-43 of the Subdivision Regulations which requires the dedication of a 53-foot half-width right-of-way adjacent to the subject tract along State Route 763/Rangeline. Presently, there is a 40-foot half-width right-of-way in place adjacent to the subject tract.

EXECUTIVE SUMMARY

At its meeting of May 19, 2005, the Planning and Zoning Commission voted unanimously (7-0) to recommend approval of the proposed final plat and the variance request to 25-43 of the Subdivision Regulations relating to dedication of a 53-foot half width right-of-way along State Route 763/Rangeline. The plat would create three C-3 zoned lots.

A staff report, locator map, reduced copy of the plat, excerpts from the minutes of the Planning and Zoning Commission meeting, and a variance request letter from the applicant are attached.

SUGGESTED COUNCIL ACTION

The Planning and Zoning Commission recommends approval of the proposed final plat and the variance request to Section 25-43 of the Subdivision Regulations.

**AGENDA REPORT
PLANNING AND ZONING COMMISSION MEETING – May 19, 2005**

33-SD-05
Commerce Bank Plat 1

ITEM NO. 33-SD-05

SUBDIVISION NAME

Commerce Bank - Plat 1 - a final plat of a minor subdivision

LOCATION

On the southeast corner of Rangeline/State Route 763 and Brown School Road.

PROPERTY SIZE

Approximately 4.50 acres

EXISTING ZONING

C-3 (General Business District)

PROPOSED USE

Unknown

SITE CHARACTERISTICS

The proposed subdivision is comprised of 3 lots. Lot 101 consists of two office buildings and adjacent parking lots. Lots 102 and 103 are presently undeveloped. It is in the Cow Branch drainage basin.

PARKLAND NEEDS/GREENBELT

Neighborhood parkland is not an issue in regard to the subject property. There is no designated greenbelt either on or adjacent to the subject site.

UTILITIES

City water and sanitary sewer utilities are available to the site. The site is within the Boone Electric Cooperative's service area, as determined by prior agreement with the City.

ACCESS/PEDESTRIAN CIRCULATION

Access to the site is off Brown School Road, an unimproved Major Arterial street, and Rangeline/State Route 763, a MoDot-maintained Major Arterial street. A note on the plat states that MoDot will restrict direct driveway access to the site to a right-in/right-out entrance onto Rangeline/State Route 763. This access point will be located in the extreme southwest corner of the subject tract. In addition, the Public Works Department has stated that driveway access on to Brown Station Road is to be limited to the existing driveway. Private access easements are to be provided so that all lots can share this existing drive.

Additional right-of-way is shown on the plat to bring Rangeline/State Route 763 up to MoDot arterial standards. No additional right-of-way is required along Brown School Road. No internal streets are proposed. Sidewalks will be required along both adjacent streets.

DISCUSSION

The proposed plat would create three C-3 zoned lots. The proposed plat meets all Subdivision Regulation requirements and staff has identified no concerns.

STAFF RECOMMENDATION

Approval of the plat

Report prepared by ESH

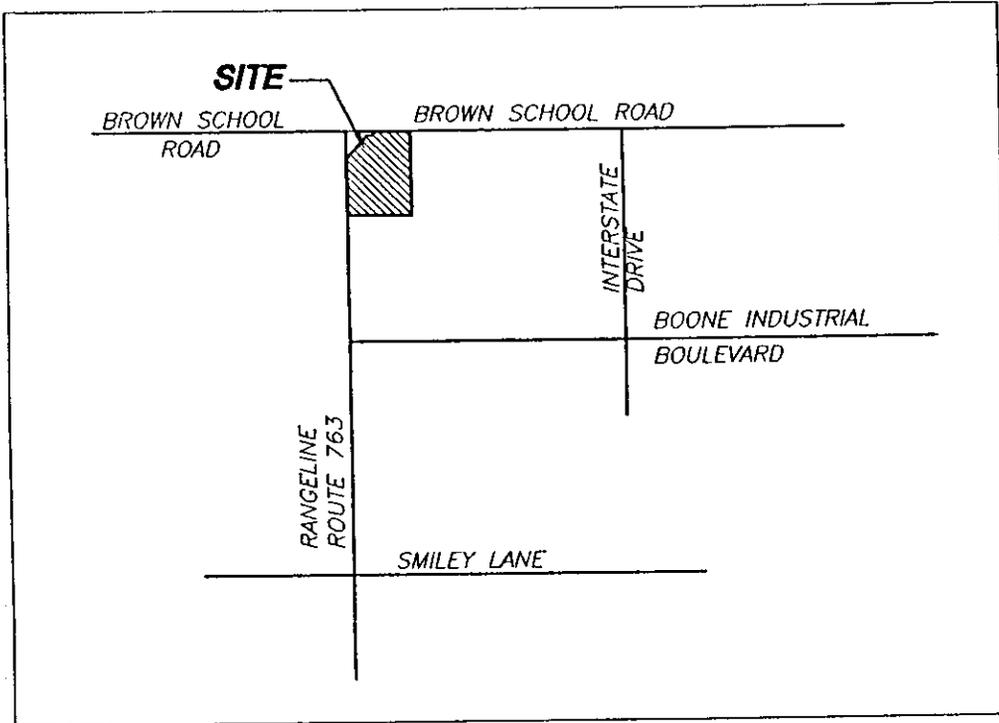
Approved by 

FINAL PLAT

COMMERCE BANK PLAT 1

MINOR SUBDIVISION

APRIL 14, 2005



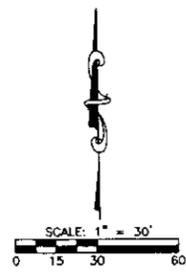
LOCATION MAP

NOT TO SCALE

FILED FOR RECORD, BOONE COUNTY MISSOURI
BETHE JOHNSON, RECORDER OF DEEDS

FINAL PLAT COMMERCE BANK PLAT 1 MINOR SUBDIVISION APRIL 14, 2005

JOB NUMBER COMMS-01
FINAL PLAT - COMMERCE BANK
X:\project\COMMERCE BANK\763 & BROWN SCHOOL\COMMS-01.DWG



BEARINGS ARE REFERENCED TO THE EAST LINE OF A SURVEY RECORDED IN BOOK 1158, PAGE 416.

LEGEND

- IRON PIPE CAP #2001006115
- EXISTING
- SET
- PERMANENT MONUMENT
- (R) RADIAL LINE
- REC. RECORD
- X_{OH} DRILL HOLE WITH CHISELED "X"
- CENTERLINE
- SQUARE FEET
- 1.30 ACRES
- - - - - EXISTING FENCE
- EXISTING STONE
- EXISTING IRON PIPE
- △ RIGHT-OF-WAY MARKER
- I.P. IRON PIPE
- R.B. REBAR

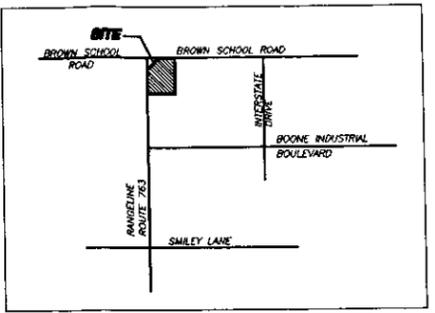
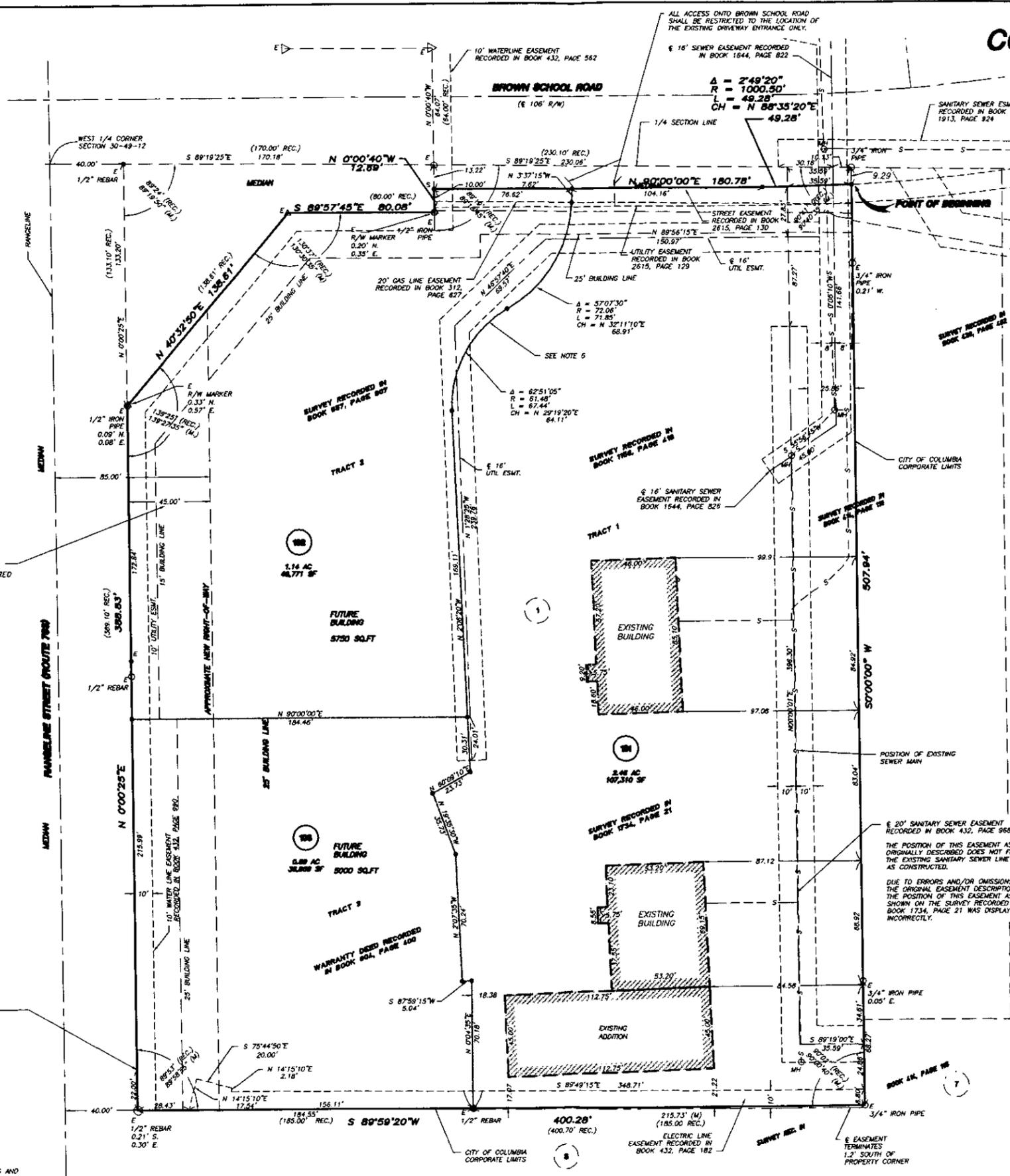
THIS STRIP OF LAND HAS BEEN RESERVED AT THE REQUEST OF THE STATE OF MISSOURI FOR ADDITIONAL RIGHT-OF-WAY WHICH MAY BE SOUGHT TO BE ACQUIRED BY THE STATE, BUT WHICH THE OWNER DOES NOT VOLUNTARILY DEDICATE, AND FOR WHICH IT WILL SEEK COMPENSATION.

NOTES

1. THIS IS AN URBAN CLASS SURVEY.
2. ALL IRONS ARE TO BE SET AFTER CONSTRUCTION UNLESS OTHERWISE NOTED.
3. ALL CURVE DIMENSIONS ARE ARC MEASUREMENTS UNLESS OTHERWISE NOTED AS CH. FOR CHORD DIMENSIONS.
4. RECORD TITLE INFORMATION FOR THIS PLAT WAS PROVIDED BY BOONE CENTRAL TITLE COMPANY, EASEMENT SEARCH NUMBER, DATED: 5/24/2001 & THE TITLE SEARCH BY BOONE CENTRAL TITLE DATED: 12/14/2004, FILE # 0415888
5. SQUARE FOOTAGES ARE CALCULATED VALUES AND ARE NOT INTENDED TO REPRESENT THE PRECISION OF THE SURVEY.
6. THE LOT LINE BETWEEN LOTS 101 AND 102 IS POSITIONED IMMEDIATELY WEST OF AN EXISTING DRIVEWAY SERVING THE EXISTING BUILDINGS ON LOT 101. PRIVATE ACCESS EASEMENTS TO LOTS 102 AND 103 WILL BE PROVIDED BY SEPARATE DOCUMENT WHEN A SITE PLAN IS PREPARED FOR THOSE LOTS.

FLOOD PLAN STATEMENT

THIS TRACT IS NOT LOCATED WITHIN THE 100-YEAR FLOOD PLAIN AS SHOWN ON THE CITY OF COLUMBIA FLOOD INSURANCE RATE MAPS.
ALL ACCESS ONTO STATE ROUTE 763 SHALL BE RESTRICTED EXCEPT AS SHOWN. THE CENTERLINE OF A 40-FOOT RIGHT-IN-RIGHT-OUT ENTRANCE WILL BE LOCATED AT THE POSITION SHOWN AS PREVIOUSLY AGREED TO BY KENNETH VOSS OF MODOY AND THE CITY OF COLUMBIA. THE PERMIT FOR THIS ENTRANCE WILL BE OBTAINED WHEN THE SITE PLAN IS PREPARED FOR LOTS 102 AND 103.



LOCATION MAP
NOT TO SCALE

KNOW ALL MEN BY THESE PRESENTS

WBB PROPERTIES, INC., BEING SOLE OWNER OF THE BELOW DESCRIBED TRACT, HAS CAUSED THE SAME TO BE SUBDIVIDED AS SHOWN ON THIS PLAT.
IN WITNESS WHEREOF, WBB PROPERTIES, INC. HAS CAUSED THESE PRESENTS TO BE SIGNED.
EASEMENTS, OF THE TYPES AND AT THE LOCATIONS AS SHOWN, ARE HEREBY DEDICATED TO THE CITY OF COLUMBIA, FOREVER.

JO ELLEN KELLY, PRESIDENT
STATE OF MISSOURI }
COUNTY OF BOONE } SS

ON THIS _____ DAY OF _____ IN THE YEAR 2005, BEFORE ME, SUZANNE M. GEBHARDT, A NOTARY PUBLIC IN AND FOR SAID STATE, PERSONALLY APPEARED JO ELLEN KELLY, PRESIDENT, KNOWN TO ME TO BE THE PERSON WHO EXECUTED THE WITHIN FINAL PLAT IN BEHALF OF SAID CORPORATION AND ACKNOWLEDGED TO ME THAT SHE EXECUTED THE SAME FOR THE PURPOSES THEREIN STATED.

SUZANNE M. GEBHARDT NOTARY PUBLIC
MY COMMISSION EXPIRES JUNE 18, 2007.

CERTIFICATION

A TRACT OF LAND LOCATED IN THE SOUTHWEST QUARTER OF SECTION 30, TOWNSHIP 49 NORTH, RANGE 12 WEST, COLUMBIA, BOONE COUNTY, MISSOURI, BEING PART OF PARCEL 1 OF THE SURVEY RECORDED IN BOOK 1758, PAGE 845 OF THE RECORDS OF BOONE COUNTY, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:
COMMENCING AT THE NORTHEAST CORNER OF PARCEL 1 OF SAID SURVEY; THENCE ALONG THE EAST LINE OF SAID SURVEY, S 0°00'00" W, 9.29 FEET TO THE POINT OF BEGINNING; THENCE S 0°00'00" E, 507.34 FEET TO THE SOUTHWEST CORNER OF SAID SURVEY; THENCE ALONG THE SOUTH LINE OF SAID SURVEY, S 89°58'20" W, 400.28 FEET TO THE EAST RIGHT-OF-WAY LINE OF ROUTE 763, SAID POINT ALSO BEING THE SOUTHWEST CORNER OF SAID SURVEY; THENCE ALONG SAID RIGHT-OF-WAY LINE, N 0°02'25" W, 388.83 FEET; THENCE N 40°32'30" E, 138.61 FEET; THENCE S 89°57'45" E, 80.08 FEET; THENCE N 0°00'40" W, 12.88 FEET; THENCE N 89°00'00" E, 180.78 FEET; THENCE ALONG A 1000.50-FOOT RADIUS CURVE TO THE LEFT, 49.28 FEET, SAID CURVE HAVING A CHORD N88°35'20" E, 49.28 FEET TO THE POINT OF BEGINNING AND CONTAINING 4.50 ACRES.

I HEREBY CERTIFY THAT I SURVEYED THE DESCRIBED PROPERTY AND SUBDIVIDED IT AS SHOWN ON THE PLAT IN ACCORDANCE WITH THE CURRENT MISSOURI MINIMUM STANDARDS FOR PROPERTY BOUNDARY SURVEYS.

SURVEY AND PLAT BY
A CIVIL GROUP

NEAL R. SLATTERY L.S. 2543
DATE _____

STATE OF MISSOURI }
COUNTY OF BOONE } SS

SUBSCRIBED AND AFFIRMED BEFORE ME THIS _____ DAY OF _____, 2005.

SUZANNE M. GEBHARDT NOTARY PUBLIC MY COMMISSION EXPIRES JUNE 18, 2007.

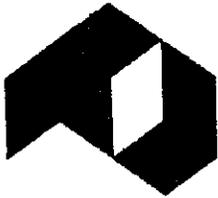
A CIVIL GROUP
CIVIL ENGINEERING, PLANNING, SURVEYING
100 FAY STREET
COLUMBIA, MO 65201
PHONE: 637-971-9750, FAX: 637-971-0171

Plotted by: meel; 03 Jun 2005 - 12:41pm

RECEIVED AND ACCEPTED BY THE COLUMBIA CITY COUNCIL THIS _____ DAY OF _____, 2005. APPROVED BY THE CITY OF COLUMBIA PLANNING AND ZONING COMMISSION THIS _____ DAY OF _____, 2005.

DARWIN HINDMAN, MAYOR
SHEELA AMIN, CITY CLERK
JERRY WADE, CHAIRMAN

JOB NUMBER COMMS-01
FINAL PLAT - COMMERCE BANK



A CIVIL GROUP

CIVIL ENGINEERING • PLANNING • SURVEYING

May 18, 2005

Planning & Zoning Board
City of Columbia
P.O. Box 6015
Columbia, Mo 65205

RECEIVED

MAY 18 2005

PLANNING DEPT.

Re: Commerce Bank Plat 1, located at the SE corner of Route 763 and Brown School Road.

Dear Members of the Board:

The purpose of this letter is to request a variance from Chapter 25-43 of the City of Columbia's Subdivision Regulations requiring that additional right-of-way be granted to provide a 53-foot half width along an urban Arterial Street. In this particular case this site was annexed into the City of Columbia only recently. Prior to annexation there were meetings that occurred between the property owner and members of the City's Planning Department staff. From those meetings, agreements were made that would require the property to go through the platting process but that the requirements for additional right-of-way would be waived in this case. This meant that the property would be annexed into the city intact with G-3 zoning and that it would be platted as it already exists.

We have shown on the face of the plat a reserved area previously confirmed with MODOT that would allow for future road widening. We will soon be submitting a Site Plan for the property that will indicate that all future improvements will be held outside the reserved area.

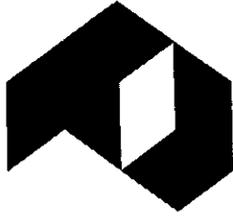
Please consider this variance request and we will attempt to answer any questions regarding this issue.

Sincerely,

A Civil Group

Neal R. Slattey, PLS, EIT

1010 FAY STREET
COLUMBIA, MISSOURI
PHONE 573-817-5750 FAX 573-817-1677



A CIVIL GROUP

CIVIL ENGINEERING • PLANNING • SURVEYING

May 16, 2005

Bill Watkins
Planning Department
City of Columbia.
701 E. Broadway
Columbia, Missouri, 65270

RECEIVED
MAY 16 2005
PLANNING DEPT.

Re: Commerce Bank Plat 1

Dear Bill:

This letter is intended to address some questions that have come up during the submittal of the Final Plat. As you are already aware, numerous discussions had previously occurred between yourself, Dan Simon and Jo Ellen Kelly regarding the annexation of this property into the City. From these discussions, agreements were made that this property would go through the platting process but that the requirements for additional right-of-way would be waived in this case. This meant that the property would be annexed intact with C-3 zoning and that it would be platted, as it already exists.

We have shown on the face of the plat that the original tract of 4.50 acres is intended to be subdivided into 3 separate lots. There is not any right-of-way shown as being dedicated on the document but it does contain the following note.

"This strip of land has been reserved at the request of the State of Missouri for additional right-of-way which may be sought to be acquired by the state, but which the owner does not voluntarily dedicate, and for which will seek compensation".

Along with this note we have graphically shown that this line will be 85 feet of the current centerline of Route 763. The current right-of-way for this area is 40 feet off the highway centerline. We will be submitting a Site Plan for this project very soon that will show that all future improvements will be held outside the reserved area. This is consistent

1010 FAY STREET
COLUMBIA, MISSOURI
PHONE: 573-817-5750 FAX: 573-817-1677

with a similar project that we did on Boone County National Bank at the northwest corner of Smiley and Route 763 within the last 2 years.

I hope that the above information answers the current questions regarding this matter. We would like to remain on the schedule for this coming Thursday and will attempt to address these issues with Planning and Zoning. If anything additional is needed at this time, please contact me.

Sincerely,

A Civil Group

Neal R. Slattery, PLS, EIT



CC: Dan Simon

Jo Ellen Kelly

Tony Eisel

EXCERPTS
PLANNING AND ZONING COMMISSION MEETING
May 19, 2005

33-SD-05 Commerce Bank, Plat 1, A final plat of a minor subdivision located on the southeast corner of Rangeline (State Route 763) and Brown School Road containing approximately 4.5 acres.

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

Staff report was given by Mr. Hanson of the Planning and Development Department. Staff recommends approval of the plat.

MR. WATKINS: Mr. Chairman, there is a request for variance, and the variance is that we would not require set-aside of the right-of-way for 763. There is some history to this that I think you should know, and that I was personally involved in much of that history several years ago when we worked with this development to annex into the city and they were an important part of our solution to the Boone Industrial Park sewer problem. When they were -- or agreed to annex, because of the nature of what is occurring on the two lots to the east, which were group homes for youth, an open C-3 zoning was required. There was an understanding at that point that the rest of the lots were legal lots, and that this process of going through platting would not be required, and that was quite clear in our discussions and in terms of letters back and forth between myself and the attorney. However, as you may recall, about a year, year and a half ago, we changed the definition of a legal lot. And this particular lot fell through the cracks and was no longer a legal lot. And so, for them to get a building permit, they had to go through this platting process that, frankly, we had assured them they wouldn't have to do. After some discussions between the applicant's attorneys and Mr. Boeckmann and myself, the decision of the City was that they had to -- that we could not grandfather their legal-lot status and they had to go through this process. And it is in order to meet all of the subdivision requirements, that the plat needs to show the right-of-way dedication for 763. The variance is such that they would agree not to build within it, but that we would not require them to dedicate that. On one hand, you can say, well, isn't the City and MoDOT giving up something that they could have, and the answer is yes. On the other hand, I think in total fairness, the deal that was struck two years ago was that that would be something that would be between them and MoDOT at a future time, and we ourselves changed the rules of the game. And so for that reason, I'm here to explain the variance request and to urge you to support it. I'd be glad to try to answer any questions that we could.

MR. WADE: Mr. Cady?

MR. CADY: The only question I've got, this is pretty much what -- the way you have explained it, it's kind of a site-specific. In your mind, do you think this will set a precedent up and down 763, or this just a kind of a "Oops, we messed up," and this is site specific?

MR. WATKINS: I think this is very site specific.

MR. CADY: Okay. Okay. Thank you.

MR. WADE: I assume that by this agreement, then that at some point when MoDOT needs that reserved land which is still the developer's, but is not built on, then the negotiation for the purchase will be between them and MoDOT?

MR. WATKINS: That's correct.

MR. WADE: Okay.

MR. WATKINS: So, approval of the variance would essentially get us back to what we had agreed to a year ago.

MR. WADE: Okay. Thank you. Are there any further questions of staff on this one? This is not a public hearing, but if you have a few short, precise comments for us to help us understand, we will welcome them.

MR. GEBHARDT: My name is Jay Gebhardt. I'm a civil engineer with The Civil Group. I live at 701 West Ash. This is the site in question. I think Mr. Watkins did a good job of explaining that the reason we're here is because not just the definition of a lot changed, but how it was -- the people that interpreted the language are no longer with the City, and there's different people interpreting it. There is punctuation, there's people adding ands in for semicolons where no ands were before and things, and it changed it. So, out of fairness, I think this is the best thing to do. We have a quick site plan that we're working on. This is for Commerce Bank. Commerce Bank is going to build their facility on the corner. This is a future area that they are going to control. I don't know if they will build on it soon or not. The driveway access is here. What we're talking about is a variance to dedicate a 53-foot half-width right-of-way. There is an existing 40-foot half-width now, so we're asking for a variance to dedicate 13 feet. MoDOT would like an 85-foot half-width right-of-way for their plans. That's what they are going to require. So, what we have done is shown the sidewalk back that we will build back out of the way. We have shown the buildings and parking lots. We've basically left that land there so that they can acquire it and build the road, and this won't obstruct anything. The last thing I wanted to say is Scott made the same mistake I make all the time in this neighborhood. This isn't Brown Station, this is Brown School, and it is an improved street, because it was just built to standards. So, other than that, if you have any questions, I'll be glad to answer them.

MR. WADE: Are there any questions? Thank you.

MR. GEBHARDT: Thank you.

MR. WADE: Commissioners? Mr. Daugherty?

MR. DAUGHERTY: Mr. Chairman, in order to make everybody whole, I move that we recommend approval of this subdivision -- this plat with the requested variance.

MR. WHEELER: Second.

MR. WADE: It's been moved and seconded that we recommend approval of the plat with recommendation of approval for the variance. Is there any discussion on the motion? Roll call, please.

MR. MEIER: This is a motion to recommend approval of Item 33-SD-05, Commerce Bank Plat 1, a final plat of a minor subdivision located on the southeast corner of Rangeline (State Route 763) and

Brown School Road, containing approximately 4.50 acres, to include a variance that requires additional right-of-way on Rangeline.

Roll Call Vote (Voting "yes" is to recommend approval.) Voting Yes: Mr. Daugherty, Mr. Holden, Mr. Meier, Mr. Skala, Mr. Wade, Mr. Wheeler, Mr. Cady. Motion carries 7-0.