B40-07

**From:** "Bill View, Columbia-Habitat" <billviewhabitat@yahoo.com>
**To:** Timothy Teddy <TTTEDDY@GoColumbiaMO.com>
**Date:** 2/15/2007 2:32:24 PM
**Subject:** Re: Norbury Hill Lot 26 sidewalk variance

Tim,
Show Me Habitat withdraws its request for the sidewalk. Sorry I did not get this to you by noon.
Bill View

Timothy Teddy <TTTEDDY@GoColumbiaMO.com> wrote:
Bill,

Following up our conversation today - If you want to withdraw the application for sidewalk variance on lot 26, Norbury Hill Subdivision, you may reply to this e-mail and indicate that. To withdraw the item from the agenda I'll need to get something in writing, preferably by noon Thursday.

Please call me if you have any questions. Thanks.

Sincerely,

Tim

Timothy Teddy, AICP
Director, Department of Planning and Development
City of Columbia
701 E. Broadway
Box 6015
Columbia, MO 65205

573-874-7318 (direct)
573-874-7239 (Planning and Development)
573-874-7546 (fax)

ttteddy@GoColumbiaMO.com

Bill View
Executive Director
Show Me Central Habitat for Humanity
Building Homes;Changing Lives

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Introduced by _____

First Reading _____ Second Reading _____

Ordinance No. _____ Council Bill No. _____B 40-07_____

**AN ORDINANCE**

granting a variance from the Subdivision Regulations regarding sidewalk construction along a portion of Rhonda Lane within Norbury Hill Subdivision; 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 grants a variance from the requirements of Section 25-48.1 of the Subdivision Regulations so that a sidewalk shall not be required along the north side of Rhonda Lane adjacent to Lot 26 within Norbury Hill Subdivision.

SECTION 2. This ordinance shall be in full force and effect from and after its passage.

PASSED this _____ day of _____, 2007.

ATTEST:

_____ _____

City Clerk Mayor and Presiding Officer

APPROVED AS TO FORM:

_____

City Counselor

Source

Timothy Teddy

Fiscal Impact

YES

NO

Other Info.

Agenda Item No._____

**TO:** City Council

**FROM:** City Manager and Staff

**DATE:** January 22, 2007

**RE:** A request by Habitat for Humanity for a variance to Section 25-48.1 of the Subdivision Regulations, which requires construction of a sidewalk adjacent to the Rhonda Lane street frontage of Lot 26, Norbury Hill subdivision, located on the northwest corner of Rhonda Lane and Andy Drive. (Case # 4-VR-06)

EXECUTIVE SUMMARY

The proposed variance is to Lot 26 of Norbury Hill subdivision, a 28-lot final plat that was approved by Council on November 4th, 2002.

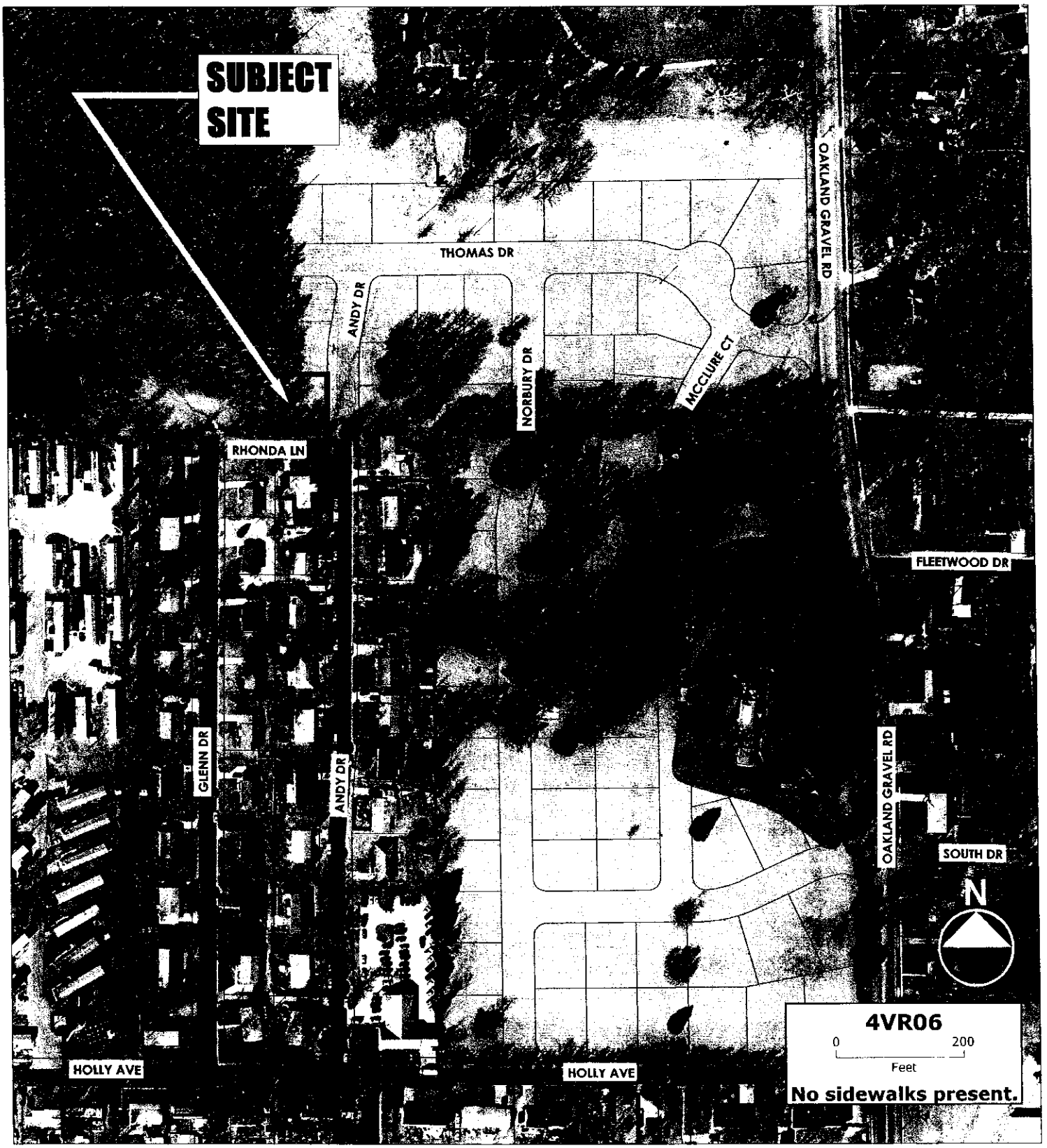
**The applicant is requesting a variance to the approximately 85-foot section along the unimproved residential street frontage of Rhonda Lane**. Based on staff's review of the required criteria, it was concluded that a variance is not justified in this case. Particularly, variance to this segment might result in a gap in the sidewalk network upon future development of land that adjoins the site.

At its meeting of January 18, 2007, the Planning and Zoning Commission voted 7-1 to recommend denial of the sidewalk variance request.

A staff report, locator map and excerpts from the minutes of the Planning and Zoning Commission meeting are attached.

SUGGESTED COUNCIL ACTION

The Planning and Zoning Commission recommends denial of the sidewalk variance request.


SUBJECT SITE
THOMAS DR
ANDY DR
NORBURY DR
MCCLURE CT
OAKLAND GRAVEL RD
RHONDA LN
FLEETWOOD DR
GLENN DR
ANDY DR
OAKLAND GRAVEL RD
SOUTH DR
HOLLY AVE
HOLLY AVE
N
4VR06
0
200
Feet
No sidewalks present.

Steve McIntyre
Variance on Sidewalk

Dear committee,

Show Me Central Habitat for Humanity wants a variance on constructing a sidewalk on the south side of 2701 Andy Drive in Norbury Hill sub-division. The reasons are as follows;

1. The natural drainage of the area will be greatly disturbed and we believe will not be as good after sidewalk construction.
2. The trees that provide shade and beauty to the area must be removed to make room for a sidewalk.
3. The sidewalk will not lead to anywhere and have low or no traffic.
4. No sidewalks are on any adjacent streets.
5. No existing curbs to measure from for installation.
6. In general we believe the sidewalk is unnecessary and serves no real purpose.

Sincerely,

Bill View
Executive Director
Show Me Central Habitat for Humanity

RECEIVED
JAN 05 2007
PLANNING DEPT.

PS Bank will be too steep after sidewalks

Introduced by Hindman Council Bill No. PR 48-06 A

Permanent Record
Filed in Clerk's Office

# A POLICY RESOLUTION

establishing a policy on requests for variances to subdivision regulation requirements for construction of sidewalks along unimproved streets.

WHEREAS, Chapter 25 of the City Code generally requires sidewalks to be constructed on both sides of all streets within a subdivision; and

WHEREAS, the City frequently receives requests for variances from these requirements when development occurs along unimproved streets which are not being constructed or reconstructed as part of the subdivision; and

WHEREAS, the City is committed to assuring safe pedestrian accommodations throughout the City while recognizing that there are occasions when standard sidewalks are not appropriate at the time of subdivision or development; and

WHEREAS, the City Council deems it necessary to adopt a policy statement to serve as a guide in reviewing and acting on requests for variances for sidewalks along unimproved streets in the City.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF COLUMBIA, MISSOURI, AS FOLLOWS:

SECTION 1. The City Council shall review each request for a sidewalk variance along an unimproved street in the context that there must be a reasonable relationship between the proposed activity of a landowner and the requirement that the landowner construct a sidewalk and in the context that the public safety and welfare make it desirable to encourage pedestrian movement by providing safe walkways and sidewalks away from traffic lanes of streets.

SECTION 2. The City Council shall grant the requested variance without conditions only if it 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.

SECTION 3. In determining the need for a sidewalk variance and in determining whether the impact of the proposed development justifies the requirement that the sidewalk be constructed, the City Council shall consider but not be limited to the following factors:

a. The cost of constructing the sidewalk relative to the cost of the proposed development;

b. Prior to issuance of the first building permit when approved with a final plat or planned development where no variance request has been made with the preliminary plat; or

c. Prior to issuance of the certificate of occupancy when variance requests are approved on individual lots where final plats have been approved without variance request.

Each payment made under this section shall be used to construct a sidewalk along the unimproved street adjacent to the property for which the payment was made. The sidewalk shall be constructed when the street is constructed to City standards.

SECTION 8. In all cases, when alternative walkways or payments under Section 7 are approved as fulfilling the subdivision requirements for construction of sidewalks, the action of Council shall be noted on a final plat of the properties affected. In cases where final plats have been previously approved, re-platting may be required.

SECTION 9. The grant of a variance to the subdivision regulations requirement for construction of a sidewalk shall not affect the power of the City Council to later install a sidewalk adjacent to the property and levy a special assessment against the property for construction of the sidewalk.

SECTION 10. This resolution replaces Policy Resolution 171-01A which is hereby repealed in its entirety.

ADOPTED this 20th day of march, 2006.

ATTEST:

City Clerk

Mayor and Presiding Officer

APPROVED AS TO FORM:

City Counselor

# EXCERPTS
# PLANNING AND ZONING COMMISSION MEETING
# January 18, 2007

**4) VARIANCE**

**4-VR-06 A request by Habitat for Humanity for a variance to Section 25-48.1 of the Subdivision Regulations regarding required sidewalks along the south side of Lot 26, Norbury Hill Subdivision.**

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

Staff report was given by Mr. Steve MacIntyre of the Planning and Development Department. Staff recommends denial of the requested sidewalk variance.

MR. WADE: Are there any questions of staff? Ms. Curby?

MS. CURBY: I want to confirm that the -- when I went by there, it was covered with snow, and I couldn't see it. There is already a sidewalk on the Andy Drive portion?

MR. MACINTYRE: Yes, there is. It extends part of the way down. Basically, the north side of the lot has sidewalk, and then when you get near the corner, I think, south of the driveway on the subject side, it has no sidewalk as of yet, but it's curbed all the way around the corner.

MR. WADE: Any further questions of staff? Again, this is not a public-hearing item, but if anyone has a few pieces of important information that you would like to share with us before we consider this request, we would welcome it. Commissioners? Ms. Curby?

MS. CURBY: Well, I disagree with the recommendation of the staff, having looked at the property, because as you drive up Glenn Drive and around and down Andy Drive, none of those streets have sidewalks. The only streets that have sidewalks is the new subdivision, and as was just confirmed, there is a sidewalk on that side. And looking at the drop-off and where those trees are, it does seem unreasonable to me to require that a sidewalk be put in. The building is built by Habitat for Humanity, and I think adding an additional $3,000 to the cost of that home and the circumstances of who is building it is unreasonable.

MR. WADE: Further discussion, Commissioners? Mr. Brodsky?

MR. BRODSKY: Actually, I kind of had a question for Ms. Curby. I believe Holly Avenue does not have sidewalks on either side of that, either; is that correct?

MS. CURBY: I didn't see any.

MR. BRODSKY: Okay. I didn't have a chance to go out to the site.

MR. CURBY: Just this whole area. And they're suggesting that, you know, the land right behind it, it has a for-sale sign on it, and it might be sold. But this whole area that borders it has no sidewalks right

now, and I think it's an unreasonable request.

MR. WADE: Further discussion? Mr. Brodsky?

MR. BRODSKY: Well, I think I kind of agree with Ms. Curby on this. I think of the old southwest area along Stewart and some of the connector streets that run parallel with Stewart -- Maupin, in particular -- that don't have any sidewalks, but it's -- and there's very low vehicle traffic, some pedestrian traffic, and, generally, the street serves as the adequate right-of-way for pedestrians. I do see the logic if that large piece of property to the north and to the west of the subject property is sold, that would be another connector to that new property, so I'm kind of on the fence on this one. I guess I'll wait to see what my fellow commissioners have to say.

MR. WADE: Mr. Holden?

MR. HOLDEN: Well, I plan to vote against the variance. I think it's an important part of the ped-net connection. And that tract that's to the northwest is going to be a cut-through for residents in this area to get to the park, you know. If I was a kid on a Saturday afternoon, I would go that way rather than walk all the way out to Oakland Gravel Road and around, you know. I bet if I was a kid, I'd try and find my way through those woods. But, yeah, I think this is an important connection, and I don't plan to support the variance.

MR. WADE: Mr. Barrow?

MR. BARROW: I don't think I'm going to support the variance, either. The idea -- you know, I've been on this Commission a pretty long time, and it always comes up -- it's a little bit like a chicken and an egg. But this neighborhood has been built up without sidewalks, so, therefore, we'll never have sidewalks if we go with that logic. And the staff had -- I mean, the City has come up with some pretty good criteria for choosing, and if the City wanted Habitat for Humanity to be some special consideration, it would say if it's owned by Habitat for Humanity, then we would grant it a variance. So, I don't find the fact that the owner or developer is Habitat for Humanity to be a compelling reason. Do you want me to move something?

MR. WADE: No.

MR. BARROW: I'm done.

MR. WADE: Okay. Thank you. Mr. Lamb?

MR. LAMB: I'm not sure how I'm going to vote on this yet, but -- and this is really, in some respects, a very minor consideration. But I don't think I've ever heard a comment like this about existing trees being undesirable for street trees. What is that -- I mean --

MR. TEDDY: Well, there are such things. There are recommended species to plant, as well as specifications for street trees. Normally won't allow them right at the pavement edge, for example. If they're weak-wooded or shorter-life trees, they're not desired in there because, eventually, they can

become a nuisance. I don't want to overstate any hazard because it is, as some of you pointed out, it's a low-volume street, you know, and there's not curbs and that kind of thing. But we don't have street trees even in our standard new streets. We just have a planting strip that's sod, and we don't -- I think some residents will plant trees in their -- in the parkway or street yard, as some call it. But, yes, there are some tree species that don't really have ornamental value or interest, and, therefore, they would not be considered a loss, in our judgment, if they were removed to accommodate a sidewalk.

MR. LAMB: I guess I'm sort of struck by the --

MR. TEDDY: We think the sidewalk is the greater good.

MR. LAMB: I guess I'm sort of struck by the irony that in some parts of town, the existence of trees is reasons not to improve the streets, and in other parts of town, it is. So, I'm just --

MR. MACINTYRE: Can I add to that? The trees, as they exist, if you want to go back to the photo there, many of them are just too crowded together, and, also, the grading that they have done in the construction of the site has disturbed a lot of their root systems. You can see -- it's difficult to tell by the photo, but a lot of them are in rough shape and certainly a couple of them are about to fall over, apparently.

MR. LAMB: I'm not disputing that being the situation in this case.

MR. MACINTYRE: Oh, okay.

MR. LAMB: I'm just noting that that was a new comment that I didn't remember hearing before.

MR. WADE: All trees are created equal, but some are more equal than others. Further comments from the commissioners? Mr. Cady?

MR. CADY: Well, after hearing everybody else, I don't think I will support the variance, either. I'll agree with staff to deny it. I look at it, the applicant doesn't sway me one way or the other; whether it's John Q. Public or Habitat for Humanity doesn't bother me either way. I mean, that doesn't give me any change in the status, so I plan to support the staff recommendation for denial.

MR. WADE: Further discussion? Mr. Holden?

MR. HOLDEN: Mr. Chairman, I make a motion we recommend denial of the variance request.

MR. CADY: Second.

MR. WADE: The motion has been made and seconded that we recommend denial of the variance request. Discussion on the motion? Mr. Barrow?

MR. BARROW: I just want to speak to the tree issue. I mean, I really appreciate the staff including the photograph so we know what the trees are. I mean, not that I'm a tree expert, and some people think I'm a tree hugger, but these are basically pioneer species of trees or Black Locusts or Locust trees and Hackberry. And I think, really, that the house will be better off clearing those out and planting a good tree that will provide a lot of shade. It doesn't take that long to get a good street tree to provide shade. So,

you know, I just want to say that about the trees.

MR. WADE: Further discussion on the motion? Roll call, please.

MR. LAMB: The motion has been made and seconded to recommend denial of Item 4-VR-06, a request by Habitat for Humanity for a variance to Section 25-48.1 of the Subdivision Regulations regarding required sidewalks along the south side of Lot 26, Norbury Hill Subdivision. And I would remind the Commission that this is a recommendation for denial, so a "yes" vote is to deny the variance request.

**Roll Call Vote (Voting "yes" is to recommend denial.) Voting Yes: Mr. Holden, Mr. Lamb, Mr. Rice, Mr. Wade, Mr. Barrow, Mr. Brodsky, Mr. Cady. Voting No: Ms. Curby. Motion carries 7-1.**