

City of Columbia

701 East Broadway, Columbia, Missouri 65201



Agenda Item Number: B 75-15

Department Source: Community Development - Planning

To: City Council

From: City Manager & Staff

Council Meeting Date: 4/6/2015

Re: James Estate Subdivision - Final Major Plat, Variance (Case #15-57)

Documents Included With This Agenda Item

Council memo, Resolution/Ordinance, Exhibits to Resolution/Ordinance

Supporting documentation includes: Summary of Board/Commission Reports (includes maps, final plat, applicant letter, PR 48-06A) Excerpts from Minutes

Executive Summary

Approval of the request will result in the creation of a one-lot final plat on A-1 (Agricultural District) zoned land, to be known as "James Estate Subdivision", and approve an associated variance to waive the requirement for sidewalk construction along the north side of Barberry Avenue.

Discussion

The applicant, Engineering Surveys and Services (ES&S), is requesting approval of a 1-lot final plat for a subdivision to be known as "James Estate Subdivision". The subject property is zoned A-1, currently vacant, and is not considered a legal lot. The site will require the extension of public sanitary sewer, and plans are currently under review by staff for approval.

A preliminary plat for the site was approved on January 21, 2015, and staff finds that the final plat is in accordance with the approved preliminary plat. The required half-width right of way upgrade for Barberry Avenue is being dedicated per the plat as well as all other necessary utility easements. Associated with this final plat approval, the applicant is requesting approval of a variance that would waive the requirement to install sidewalks along Barberry Avenue as required by Section 25-48.1(a) of the subdivision regulations.

At its meeting on March 5, 2015, the Planning and Zoning Commission voted (5-3) to recommend approval of the requested sidewalk variance. No Commission action was taken on the final plat since such action is reserved for Council in accordance with the subdivision regulations. The final plat is consistent with the approved preliminary plat with the exception of the requested variance.

Prior to arriving at its recommendation, Tim Reed of ES&S (applicant's agent) gave an overview of the request and summarized the applicability of PR 48-06A to the requested variance. The majority of the Commission cited the general lack of sidewalks and the absence of plans to construct sidewalks on Barberry as well as the relatively short frontage as factors in support of the variance. The Commissioners voting against the variance acknowledged the existing conditions but believed the ordinance should still apply. No one from the public spoke during the meeting.

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A copy of the Planning and Zoning Commission staff report (including maps, final plat, applicant letter, and PR 48-06A), and excerpts of the meeting's minutes are attached.

Fiscal Impact

Short-Term Impact: Limited short-term impact. Prior to future development sanitary sewer must be extended to the site, which would be the responsibility of the property owner.

Long-Term Impact: Limited long-term impact, but would include infrastructure maintenance and public safety services. Such increased costs may or may not be offset by increased property taxes and user fees.

Vision, Strategic & Comprehensive Plan Impact

Vision Impact: Development

Strategic Plan Impact: Infrastructure

Comprehensive Plan Impact: Land Use & Growth Management

Suggested Council Action

- 1) Approval of the final plat for "James Estate Subdivision", and;
- 2) Approval of the variance to Section 25-48.1(a) to waive the sidewalk construction requirement along the right of way of Barberry Avenue, as recommended by the Planning and Zoning Commission.

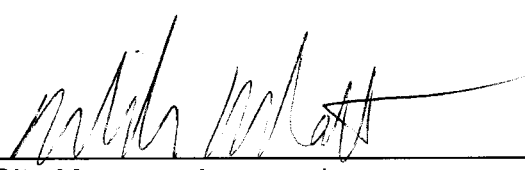
Legislative History

Resolution #15-15 (1/21/15): Approved "James Estate Subdivision" preliminary plat

Resolution #337-69 (10/10/69): Approved annexation and zoning to A-1



Department Approved



City Manager Approved

Introduced by _____

First Reading _____

Second Reading _____

Ordinance No. _____

Council Bill No. B 75-15

AN ORDINANCE

approving the Final Plat of James Estate Subdivision;
accepting the dedication of rights-of-way and easements;
authorizing a performance contract; granting a variance from
the Subdivision Regulations relating to sidewalk construction;
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 James Estate Subdivision, as certified and signed by the surveyor on March 5, 2015, a subdivision located on the north side of Barberry Avenue and west of Hibiscus Drive, containing approximately 11.96 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. The City Manager is hereby authorized to execute a performance contract with JCO Specialties, LLC in connection with the approval of the Final Plat of James Estate Subdivision. The form and content of the contract shall be substantially as set forth in "Exhibit A" attached hereto.

SECTION 4. Subdivider is granted a variance from the requirements of Section 25-48.1 of the Subdivision Regulations so that a sidewalk shall not be required along the property's Barberry Avenue frontage.

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

PASSED this _____ day of _____, 2015.

ATTEST:

City Clerk

Mayor and Presiding Officer

APPROVED AS TO FORM:

City Counselor

PERFORMANCE CONTRACT

This contract is entered into on this 22 day of JANUARY, 2015 between the City of Columbia, MO ("City") and JCO SPECIALTIES, LLC ("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 JAMES ESTATE SUBDIVISION, 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 the 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: _____
Mike Matthes, City Manager

ATTEST:

Sheela Amin, City Clerk

APPROVED AS TO FORM:

Nancy Thompson, City Counselor

Subdivider JCO SPECIALTIES, LLC
BY: _____
HAROLD E. JAMES, MEMBER

City of Columbia

701 East Broadway, Columbia, Missouri 65201



SUPPORTING DOCUMENTS INCLUDED WITH THIS AGENDA ITEM ARE AS FOLLOWS:

Summary of Board/Commission Reports (includes maps, final plat, applicant letter,
PR 48-06A) Excerpts from Minutes

**AGENDA REPORT
PLANNING AND ZONING COMMISSION MEETING
February 26, 2015**

SUMMARY

A request by Engineering Surveys and Services (applicant) on behalf of JCO Specialties, LLC (owner) for approval of a one-lot final plat on A-1 (Agricultural District) zoned land, to be known as "James Estate Subdivision", and an associated variance to the requirement for sidewalk construction. The 11.96-acre subject property is located on the north side of Barberrry Avenue approximately 150 feet west of Hibiscus Drive. (**Case #15-57**)

DISCUSSION

The applicant is requesting approval of a final plat to be known as "James Estate Subdivision", and a variance from Section 25-48.1 that requires sidewalks be constructed along right of way of all subdivisions platted since 2001 . If approved, the variance would grant an exception to the requirement that the applicant construct sidewalk along the property line adjacent to Barberrry Avenue.

Barberrry Avenue is currently an unimproved road that is classified as a Neighbor Collector in CATSO's Major Roadway Plan. The City's FY2015 Capital Improvements Program (CIP) does not include any planned street projects for this portion of Barberrry; however, the portion of Barberrry east of Hibiscus Drive (which is approximately 100 feet east of the subject property) is included, but with a 10+ year timeframe for any improvements.

Council Policy Resolution 48-06A provides specific guidance for determining the need for a sidewalk variance and whether the impact of the proposed development justifies the requirement that the sidewalk be constructed, based on the following factors:

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

Per the applicant, the following improvements are planned:

- Residence: \$300,000
- Driveway (to Fire Department specifications): \$160,000
- Sidewalk: \$1,200

The cost of constructing a sidewalk represents a small portion of the overall costs of site improvements, accounting for less than one percent of the total cost.

2. Whether the terrain is such that sidewalks or walkways are physically feasible;

The applicant has stated that construction of a sidewalk along the subject property will require significant grading in order to accommodate the unimproved street detail, placing the sidewalk on an island and rendering it unusable by the public. They also noted that multiple trees would need to be removed, and that the sidewalk would likely be removed during future improvements to Barberrry.

Staff has reviewed the site and determined that the current grade does not preclude the installation of sidewalks. The applicant's comments are addressing the possibility that the sidewalk is constructed at a grade different than the existing grade, but consistent with the grade at which future improvements to the roadway may be made. The City does have a detail for the location of a sidewalk along an unimproved road that attempts to locate sidewalks at a grade that is consistent

with future improvements, which at times may necessitate the property be cut or filled to achieve the proper grade. However, in the event that the grading creates a situation in which the sidewalk is unusable or unreasonable, the City may allow for the installation of sidewalk at the existing grade of the property.

Staff finds that the installation of sidewalk (whether at current or future grades) would be feasible on the subject property. Given the fact that the planned improvements for Barberrry are scheduled for more than 10 years into the future, staff is of the opinion that this window of time allows for productive use of a sidewalk even with the possibility that it may be removed in the future. The City would be responsible for the reconstruction of the sidewalk in that event.

3. Whether the sidewalk would be located in a developed area, on a low traffic volume local street without sidewalks;

The subject property is located in a semi-developed area. Valley View Ridge subdivision, approved in 1999, is a residential development with sidewalks located on the south side of Barberrry, across from the subject property. The properties immediately east and west of the subject property are undeveloped, but along Barberrry Avenue, many properties are improved with single-family dwellings, albeit at lower relative densities than Valley View Ridge. There are no sidewalks in the immediate area along the north side of Barberrry.

The street is considered a neighborhood collector and not a local street. The City does not possess current traffic counts for Barberrry Avenue and so traffic volumes could not be determined.

4. Current or future parks, schools or other pedestrian generators near the development for which a sidewalk or walkway would provide access.

Barberrry Park, which recently received Council approval for construction, is located approximately 500 feet east of the subject site, on the south side of Barberrry Avenue.

After consideration of the requested variance to Section 25-48.1, staff finds that the listed factors included in Council Policy Resolution 48-06A are not adequately supported for staff to support the requested variance. Staff acknowledges that an accurate traffic volume could not be determined as requested for factor #3; however, the roadway is not considered a local street, which is one of the stated stipulations and would appear to preclude the request from meeting this standard.

Staff has reviewed the submitted final plat and finds that, with the exception of the requested variance, the plat is consistent with the previously approved preliminary plat for "James Estate Subdivision", and meets all technical requirements of the City's Subdivision Regulations. Staff supports the approval of the final plat, but does not support the approval of the requested variance.

RECOMMENDATION

Approval of the final plat for "James Estate Subdivision".

SUPPORTING DOCUMENTS (ATTACHED)

- Locator Maps
- "James Estate Subdivision" final plat
- Applicant letter
- Council Policy Resolution PR 48-06A

HISTORY

Annexation date	1969
Zoning District	A-1 (Agricultural District)
Land Use Plan designation	Neighborhood District
Previous Subdivision/Legal Lot Status	Not a legal lot

SITE CHARACTERISTICS

Area (acres)	11.96 acres
Topography	Slopes from west to east, with increased slope in SE
Vegetation/Landscaping	Majority of site covered with trees, brush
Watershed/Drainage	Perche Creek
Existing structures	None

UTILITIES & SERVICES

Sanitary Sewer	All City services are available to the site. Sanitary extension required.
Water	
Fire Protection	
Electric	

ACCESS

Barberry Avenue	
Location	South side of subdivision
Major Roadway Plan	Neighborhood Collector (unimproved & City-maintained). Requires 60-foot total ROW; additional right of way dedicated for 30-foot half-width.
CIP projects	Improvements between Hibiscus Dr-Mayberry Dr listed as 10+ year project

PARKS & RECREATION

Neighborhood Parks	Within ½ mile radius of Barberry Park.
Trails Plan	No trails planned adjacent to site.
Bicycle/Pedestrian Plan	Future major collector NW of property recommended as a "Complete Street".

Report prepared by Clint Smith

Approved by Patrick Zenner



SUBJECT SITE

15-57: James Estate Subdivision Final Plat & Variance



- City of Columbia Zoning
- 100-Year Flood Plain
- Boone County Zoning
- Parcels
- Columbia City Limit





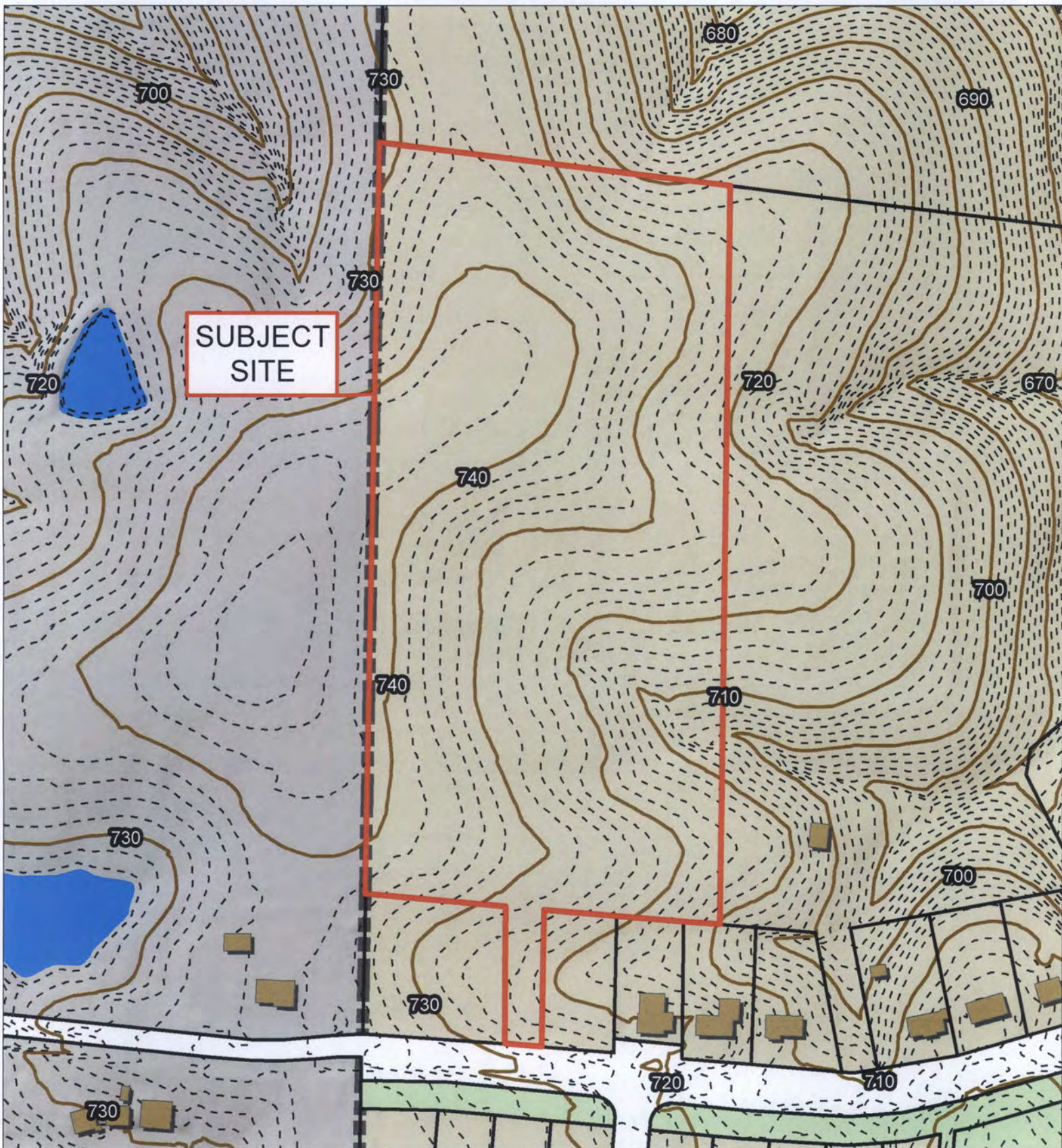
SUBJECT SITE

15-57: James Estate Subdivision Final Plat & Variance



- City Sanitary Structure
- Private Sanitary Structure
- City Sanitary Line
- Private Sanitary Line
- Building Footprint
- Parcels
- Columbia City Limit





15-57: James Estate Subdivision Final Plat & Variance

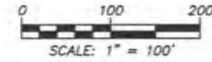


- 10 Foot Contour Lines
- 2 Foot Contour Lines
- Parcels
- Building Footprint
- Bodies of Water
- Columbia City Limit



JAMES ESTATE SUBDIVISION

FEBRUARY 17, 2015



BEARINGS ARE REFERENCED TO THE WEST
 LINE OF NOLKE SUBDIVISION RECORDED IN
 PLAT BOOK 26 PAGE 50

MONUMENT LEGEND

- ⊕ IRON
- S SET
- F FOUND

A SUBDIVISION LOCATED IN THE SOUTHEAST QUARTER OF SECTION 4
 T48N R13W, IN COLUMBIA, BOONE COUNTY, MISSOURI, BEING TRACT 1 OF A
 SURVEY RECORDED IN BOOK 388 PAGE 926, CONTAINING 11.96 ACRES, ALSO
 BEING THE TRACT DESCRIBED BY A QUIT-CLAIM DEED RECORDED IN BOOK
 4381 PAGE 159.

THIS URBAN PROPERTY HAS BEEN SURVEYED AND SUBDIVIDED IN
 ACCORDANCE WITH THE CURRENT MISSOURI MINIMUM STANDARDS FOR
 PROPERTY BOUNDARY SURVEYS.

BY:
 ENGINEERING SURVEYS AND SERVICES
 MISSOURI L.S. CORP. #2004004672
 1113 FAY STREET
 COLUMBIA, MO 65201
 PHONE: (573) 449-2646
 EMAIL: FCARROZ@ESS-INC.COM



Frederick E. Carroz III
 FREDERICK E. CARROZ III
 PROFESSIONAL LAND SURVEYOR
 PLS - 2008016655

2/17/2015

STATE OF MISSOURI }
 COUNTY OF BOONE } SS

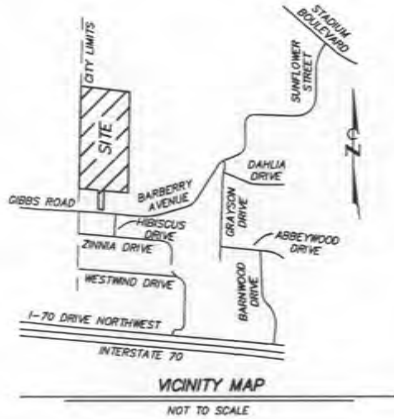
ON THIS 22ND DAY OF JANUARY, 2015 BEFORE ME PERSONALLY
 APPEARED FREDERICK E. CARROZ III TO ME KNOWN TO BE THE PERSON
 DESCRIBED IN AND WHO EXECUTED THE FOREGOING INSTRUMENT AND
 ACKNOWLEDGED THAT HE EXECUTED THE SAME AS HIS FREE ACT AND DEED.
 IN TESTIMONY WHEREOF I HAVE HEREUNTO SET MY HAND AND
 AFFIXED MY OFFICIAL SEAL AT MY OFFICE IN SAID COUNTY AND STATE, THE
 DAY AND YEAR FIRST ABOVE WRITTEN.
 MY TERM EXPIRES DECEMBER 6, 2015.

JOSHUA D. LEHMEN, NOTARY PUBLIC

ACCEPTED BY ORDINANCE OF THE CITY COUNCIL OF
 COLUMBIA, MISSOURI, THIS 6TH DAY OF APRIL, 2015

ROBERT MCDAVID, MAYOR

ATTEST: SHEELA AMIN, CITY CLERK



VICINITY MAP
 NOT TO SCALE

KNOW ALL MEN BY THESE PRESENTS:

THAT, JCO SPECIALTIES, LLC BEING THE SOLE OWNER OF THE ABOVE
 DESCRIBED TRACT, HAVE CAUSED THE SAME TO BE SUBDIVIDED INTO ONE
 LOT AS SHOWN ON THE PLAT. ADDITIONAL LAND FOR RIGHT-OF-WAY FOR
 BARBERRY AVENUE LOCATED AS SHOWN ON THE PLAT, IS HEREBY
 DEDICATED TO THE CITY OF COLUMBIA FOR PUBLIC USE FOREVER. A UTILITY
 EASEMENT LOCATED AS SHOWN ON THE PLAT IS, IS HEREBY DEDICATED TO
 THE CITY OF COLUMBIA FOR PUBLIC USE FOREVER.

JCO SPECIALTIES, LLC

HAROLD E. JAMES, MEMBER

STATE OF MISSOURI }
 COUNTY OF BOONE } SS

ON THIS _____ DAY OF _____, 2015 BEFORE ME
 APPEARED HAROLD E. JAMES TO ME PERSONALLY KNOWN, WHO, BEING BY
 ME DULY SWORN DID SAY THAT HE IS A MEMBER OF JCO SPECIALTIES,
 LLC, A MISSOURI LIMITED LIABILITY COMPANY AND THAT SAID INSTRUMENT
 WAS SIGNED IN BEHALF OF SAID LIMITED LIABILITY COMPANY AND THE SAID
 HAROLD E. JAMES ACKNOWLEDGED SAID INSTRUMENT TO BE THE
 FREE ACT AND DEED OF SAID LIMITED LIABILITY COMPANY.

IN TESTIMONY WHEREOF I HAVE HEREUNTO SET MY HAND AND
 AFFIXED MY OFFICIAL SEAL AT MY OFFICE IN SAID COUNTY AND STATE,
 THE DAY AND YEAR FIRST ABOVE WRITTEN.
 MY TERM EXPIRES _____

_____, NOTARY PUBLIC

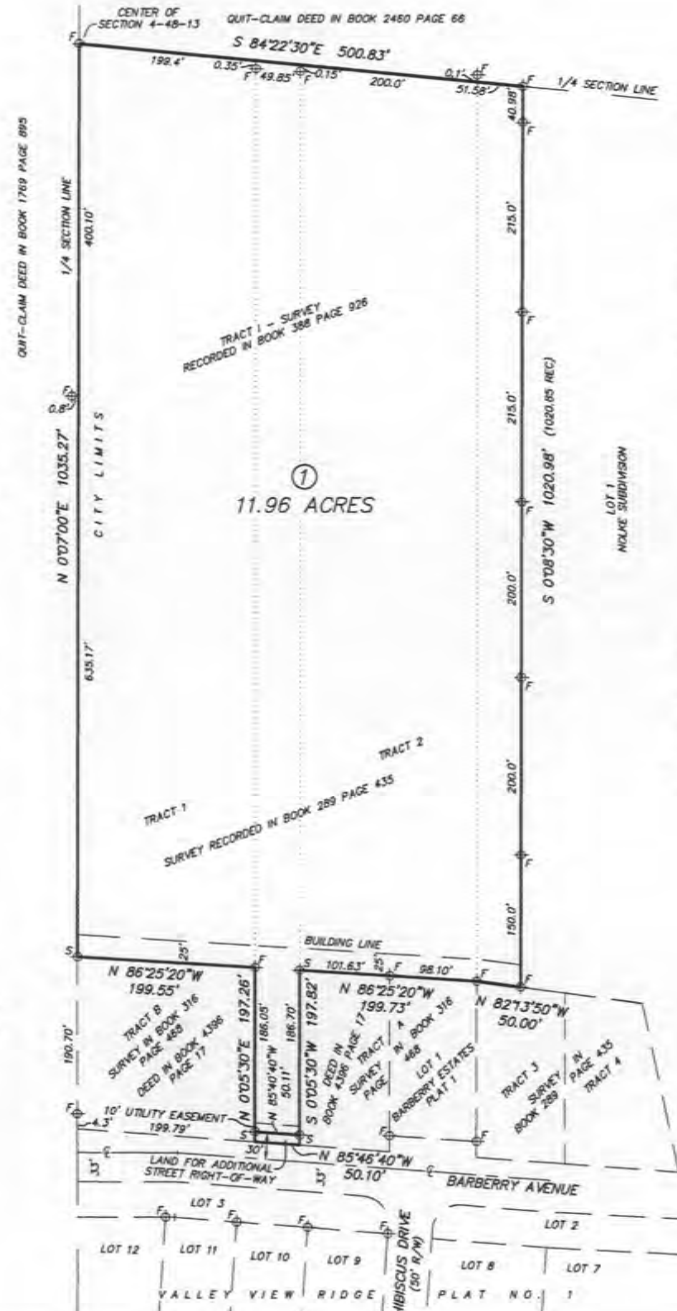
NOTES

THIS LOT IS NOT REGULATED BY THE CITY OF COLUMBIA STREAM BUFFER
 ORDINANCE AS DETERMINED BY THE USGS MAP, HUNTSDALE QUADRANGLE,
 BOONE COUNTY, MISSOURI, AND ARTICLE X OF CHAPTER 12A OF THE CITY OF
 COLUMBIA CODE OF ORDINANCES.

THIS PROPERTY IS LOCATED IN ZONE "X", AREAS DETERMINED TO BE
 OUTSIDE THE 0.2% ANNUAL CHANCE FLOODPLAIN, AS SHOWN BY FLOOD
 INSURANCE RATE MAP NUMBER 29019C0260D, DATED MARCH 17, 2011.

APPROVED BY THE PLANNING AND ZONING COMMISSION,
 COLUMBIA, MISSOURI, ON _____

DR. RAMAN PURI, CHAIRPERSON



①
 11.96 ACRES



P:\columbiacounty\mink\15-2015\15-2015-1-2015-PLA-12.doc 2/17/2015

Engineering Surveys and Services

Consulting Engineers, Scientists, and Land Surveyors
Analytical and Materials Laboratories

1113 Fay Street
Columbia, Missouri 65201
Telephone 573-449-2646
Facsimile 573-499-1499

E-Mail ess@ESS-Inc.com
<http://www.ESS-Inc.com>

January 23, 2015

Mr. Timothy Teddy, Director
City of Columbia
Department of Community Development
P.O. Box 6015
Columbia, MO 65205

Dear Mr. Teddy:

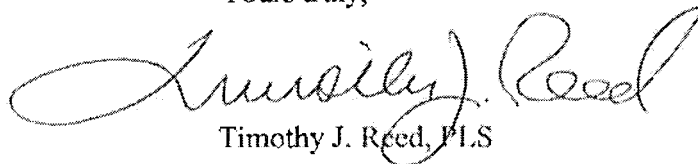
Enclosed is our "development review application", final plat checklist, two signed performance contracts, a locator map, and a sidewalk variance worksheet for a final plat of a tract of land located on Barberrry Avenue, entitled "James Estate Subdivision. This plat includes a variance request for the sidewalk along the north side of Barberrry Avenue.

Final plat. This is a one lot plat containing 11.96 acres. This tract was previously shown as Tract I of a survey recorded in book 388 page 926.

Variance. In accordance with Section 25-20 of the City of Columbia Subdivision Regulations, it is respectfully requested that a variance be granted to Section 25-48.1, regarding the required sidewalk along Barberrry Avenue. Barberrry Avenue is an unimproved asphalt road and there are no sidewalks in the area. This lot has a 50 foot wide stem that provides access to Barberrry Avenue. The area where the sidewalk would be constructed is approximately five feet lower than Barberrry Avenue.

Thank you.

Yours truly,



Timothy J. Reed, P.L.S.

enclosures

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. Whether the terrain is such that sidewalks or walkways are physically feasible;
- c. Whether the sidewalk would be located in a developed area, on a low traffic volume local street without sidewalks;
- d. Current or future parks, schools or other pedestrian generators near the development for which a sidewalk or walkway would provide access.

SECTION 4. If the City Council finds that the proposed use of the land would justify the requirement that a sidewalk be constructed and that in the interest of public safety and welfare there is an immediate or near future need for a sidewalk or walkway at the location of the variance request, the City Council will approve the variance request only if an alternative walkway is provided or if the property owner pays the City for future construction of the sidewalk pursuant to Section 7 or if some other equitable arrangement for construction of a sidewalk or other pedestrian infrastructure improvement is made.

SECTION 5. Alternative walkways are defined as all weather pedestrian facilities constructed in accordance with plans and specifications approved by the Public Works Department. Alternative walkways may deviate in vertical and horizontal separation from the roadway in order to take advantage of natural contours and minimize the disturbance to trees and natural areas but must meet all requirements for handicap accessibility. Alternative walkways must be located on public easements but a walkway easement may be conditioned that if the walkways are no longer needed for a public purpose, the walkway easements will be vacated.

SECTION 6. When alternative walkways are permitted, plans, specifications and easements must be submitted prior to approval of the final plat abutting the unimproved street and construction must occur prior to the first certificate of occupancy within the platted area.

SECTION 7. If the City Council determines that the public safety and welfare would not be jeopardized, the Council may allow the property owner, in lieu of constructing an alternative walkway, to pay the City the equivalent cost of construction of a conventional sidewalk. The equivalent cost of construction of a conventional sidewalk shall be defined as the City's average cost of constructing portland cement concrete sidewalks by public bid during the two (2) calendar years prior to the year in which the variance request is submitted. Payment of the equivalent cost of a conventional sidewalk shall occur:

- a. Prior to approval of the first final plat when the variance is approved in connection with a preliminary plat;

- 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.

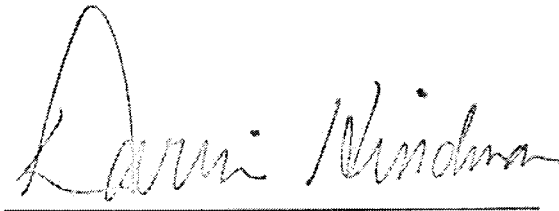
SECTION 10. This resolution replaces Policy Resolution 171-01A which is hereby repealed in its entirety.

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
MARCH 5, 2015

IV) SUBDIVISIONS

MR. REICHLIN: Okay. Our first item tonight is under Subdivisions.

Case No. 15-57

A request by Engineering Surveys and Services (applicant) on behalf of JCO Specialties, LLC, (owner) for approval of a one-lot final plat on A-1 (Agricultural District) zoned land, to be known as "James Estate Subdivision," and an associated variance to the requirement for sidewalk construction. The 11.96-acre subject property is located on the north side of Barberry Avenue approximately 150 feet west of Hibiscus Drive.

MR. REICHLIN: May I have a staff report, please?

Staff report was given by Mr. Clint Smith of the Planning and Development Department. Staff recommends denial of the sidewalk variance.

MR. REICHLIN: Are there any questions of staff? Ms. Loe?

MS. LOE: Can you tell me who owns the lots directly south -- they're shown as Lot 2 and Lot 3, south on Barberry Avenue -- and whether or not those are buildable lots?

MR. SMITH: These lots here?

MS. LOE: No. South of the street.

MR. SMITH: South here?

MS. LOE: South.

MR. SMITH: Okay. Yes. These -- there's actually two -- or two common lots located along the roadway here about 40 feet in depth, and those are actually both owned by the City, and are -- at least the eastern portion, I know, and I believe the western portion is kind of consolidated in that park development.

MS. LOE: So, they're not buildable and they are owned by the City?

MR. SMITH: They're not buildable for residential use, no.

MS. LOE: Okay. Thank you.

MR. SMITH: Yeah.

MR. REICHLIN: Any other questions of staff? Mr. Strodtman?

MR. STRODTMAN: Back to Ms. Loe's question. What would be the intended use of those lots?

MR. SMITH: On the south portion?

MR. STRODTMAN: Uh-huh.

MR. SMITH: They are -- they're common lots. They're actually identified for pedestrian access.

MR. STRODTMAN: So I guess my question -- the bigger question is, in theory, the two lots on the north side on both sides of the stem would have future potential sidewalks, and then anything to the west that shows the little single house, that would also have potential future sidewalks once it came before us.

Correct? But nothing else would probably ever have sidewalks on Barberry?

MR. SMITH: These two lots, yes. These two vacant lots, there's a few different methods by which sidewalks can be required. One is if it's not a legal lot and they come in and they do the same process, then we'll require sidewalks.

MR. STRODTMAN: Okay.

MR. SMITH: If it is already a legal lot, but no construction has been actually done on the lot like these, if it is considered a legal lot, but it's vacant, a building permit would -- would require the construction of a sidewalk, as well. Properties to the east, these properties, depending again on the situation, if they were to apply for a significant building permit or if they required a final plat because it's not necessarily considered a legal lot, then, at that time, they would be required to build sidewalks as well.

MR. REICHLIN: Mr. Tillotson?

MR. TILLOTSON: You said this road is in the -- a future improvement plan?

MR. SMITH: Right. It is considered a ten-plus year project, so --

MR. TILLOTSON: If the City did, at that time, come in and do that, would the City go up -- most likely put sidewalks in at that time?

MR. SMITH: Yes. Yes.

MR. TILLOTSON: Okay.

MR REICHLIN: Any other questions of staff? Seeing none. This is attached to a subdivision matter. We don't usually take public comment; however, I will extend the opportunity to comment. Anything that you want -- feel like might help fill in gaps or add to our decision-making process?

MR. REED: I'm all about filling in the gaps. My name is Tim Reed; I'm a land surveyor with Engineering Surveys and Services. You've heard that the City staff --

MR. REICHLIN: Give your -- may we have your address, please?

MR. REED: I'm sorry?

MR. REICHLIN: May we have your address, please?

MR. REED: 1113 Fay Street. The staff has determined that our variance request doesn't meet the criteria of the sidewalk variance worksheet. The staff has created that worksheet from -- from the four factors that are listed in Section 3 of that City Council policy resolution which relates to sidewalks along unimproved streets. By creating that worksheet, the staff has now established them as requirements for a variance even though that's not the intention of the City Council when they state in Section 3 of their resolution that the City Council shall consider, but not be limited to, the following factors. We can always strive to create lists and worksheets to evaluate these variances, but due to the nature of a variance request, they're generally all different and unique, and they need to be evaluated each on their own merits. That's certainly the case for this variance request. The dictionary defines a variance as deviating from a standard. This plat is very different from a standard, multiple-lot residential plat. It was created by a survey in 1970. It's a large 12-acre lot. It adjoins the City limits, and it has a 50-foot stem that extends to Barberry Avenue to provide access. The property owner intends to build a home near the center of this property, which will be approximately 700 feet from Barberry Avenue. After the construction of a 20-foot-

wide sidewalk, which is required by the fire department, the property owner would need to construct two five-foot sidewalks extending 15 feet east and west of the driveway. This is not a cost issue, it's a common-sense issue. That sidewalk is not needed and it would never be used. The time to construct the sidewalk will be when Barberrry Avenue is improved in the future. Section 2 of that Council policy states that 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. Our variance request satisfies both of those conditions, the way I see it. The property owner will gladly install sidewalks when Barberrry Avenue is improved, and that is exactly what the City is doing just 100 feet east of this lot along the south side of Barberrry. The park improvement plan for Barberrry Park shows the sidewalk along the south side of Barberrry Avenue as future. This sidewalk is over 900 feet long, by the way. When we contacted the Parks and Recreation Department, they said that the sidewalk is not needed at this time and that it will be built after Barberrry Avenue is improved. The property owner respectfully requests approval of the sidewalk variance, and we acknowledge that Section 9 of that Council resolution states 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 a sidewalk. Thank you, and I would be happy to answer any questions.

MR. REICHLIN: Are there any questions of this speaker? Seeing none. Thank you.

MR. LEE: Mr. Reed?

MR. REICHLIN: I'm sorry. Mr. Lee?

MR. REED: Yes, sir.

MR. LEE: Did I understand you correctly that after the entrance is built to accommodate the fire department –

MR. REED: Yes, sir.

MR. LEE: -- then the City is asking to build two five-foot sidewalks on either side of that driveway? Did I understand that?

MR. REED: Yes. The -- that is a 50-foot stem that extends to Barberrry. So if we center a 20-foot driveway in the middle, that would leave 15 feet on either side, which would be required to extend a sidewalk to each edge. So it would be 15 feet, a 20-foot driveway, and a 15-foot sidewalk.

MR. LEE: Thank you.

MR. REICHLIN: Ms. Loe?

MS. LOE: Since there is no curb on this road, how far -- are there any requirements for how far back the sidewalks would be from the road?

MR. REED: There are. I don't even know off the top of my head. At the location of this stem, the ground is about five feet lower than the surface of the -- of the road, and it -- it really would be a rather dangerous sidewalk to have -- it doesn't connect to anything, but it's significantly lower than the surface of the roadway. But I don't know, it goes back -- it's a few feet beyond the property line, I believe, that it's supposed to be constructed.

MS. LOE: But someone would have to walk across the pasture -- or meadow to get -- from the road to get to the sidewalk is my question.

MR. REED: Yes.

MS. LOE: All right.

MR. REICHLIN: Any other questions? Seeing none. Thank you very much.

MR. REED: Thank you.

MR. REICHLIN: Given those comments, I'll turn this over to Commissioners, and we'll have -- we'll go from there. Mr. Lee?

MR. LEE: I have a question for staff. Who is the sidewalks -- these two sidewalks supposed to serve?

MR. SMITH: Well, they would serve any residents that are walking along that area.

MR. LEE: Would you walk along that road?

MR. SMITH: I don't live there, so I may not walk there, no. But I -- but some residents in that area --

MR. LEE: An unimproved road?

MR. SMITH: If they are traveling along the roadway, walking along that, residents, then I would expect that they might use that, yes.

MR. LEE: I don't mean to be sarcastic, but 30 feet of sidewalk --

MR. SMITH: Uh-huh. And I would say --

MR. LEE: -- on the entire road?

MR. SMITH: Yeah. And I would say that that's not necessarily a criteria that we evaluate when it comes to approving a variance or not, whether it's in an area that's, you know, going to be used, or is an area that has sidewalks connecting directly adjacent to it, so it's not something that we necessarily would evaluate at that time.

MR. LEE: Thank you.

MR. ZENNER: If I may also just add, I mean, we -- the City of Columbia has adopted a complete streets design standard associated with our roadway systems. And those complete street requirements do come into play whenever we are platting property or we are requiring road right-of-way. And as such, the request and the policy resolution, as well as the standard variance criteria within the subdivision regulations are played -- are played out with each individual situation that comes forward. Mr. Reed is correct that the Council can utilize the four criteria as a consideration. We have, by policy and practice, taken all variance requests for sidewalks to this body, and when we have an unimproved street, we use that criteria as the basis for our evaluation because the criteria for a standard variance is overruled. It is governed by the policy resolution and, therefore, that is why the worksheet has been created. That is why we bring forth to you the request. It is also to stay true to the adopted desired standard of the City to have sidewalks along all of its platted property after 2001. So we are trying to fulfill the obligation that has been handed to us through the regulations. It is often, as we have discussed in these sessions, sometimes impractical for us to come before you when, in common sense, a sidewalk may not be utilized. However,

as Mr. Smith has pointed out, that does not come into our factor. We are only enforcing the regulations and applying them as they have been provided to us. Hence, the reason we request the Commission to take consideration of the relevant factors that the applicant maybe will bring forward. I would -- I would conclude that in an area where you don't have sidewalks, it may be very unlikely for people to utilize a sidewalk that is there. But as I have also been quoted in other venues that we have had, sidewalks to nowhere connect to somewhere, and we have to start them at a certain point. If we continue to just waive sidewalks, because they seem impractical, we will never create an alternative for those that do want to walk and do want to walk to those facilities that may be nearby. That is the reason that we bring these requests to you.

MR. LEE: Thank you.

MR. REICHLIN: Mr. Tillotson?

MR. TILLOTSON: Okay. This -- improvements for this road is how far out in the future, we think? Ten years, fifteen --

MR. SMITH: Ten-plus years is what it's listed on in the --

MR. TILLOTSON: Okay. I'm kind of in agreement with staff as far as denying the variance. I understand it. I just -- if they build a sidewalk, ten or fifteen years from now, and they put all new sidewalks in when the road is done, then we've got a fifteen-year-old piece of concrete that is probably going to have to be tore out anyway and replaced. That's -- that's what I'm thinking, you know. Of course, I -- I kind of agree with what you're saying and -- and the variance should be denied, but I can just see building a sidewalk and then it's going to be rebuilt again. That's what I'm struggling with. I don't know if anybody else sees that or --

MR. REICHLIN: Mr. Strodman?

MR. STRODTMAN: Staff, can you -- can you elaborate on the park sidewalks. The proposed --

MR. SMITH: I can elaborate as best I can. I am aware of what Mr. -- what Mr. Reed is referring to is the sidewalks, they do have a plan for the park, which is -- I don't know if I've captured it on anything here.

MR. STRODTMAN: I don't think we have.

MR. SMITH: It's located here. They do have -- the plan that I've seen, they've got kind of two phases; one with some internal walkways and a second phase with the full pathways along Barberry. I have had discussions with the Park District about the timing of that and the possibility that that could be required because it is a final plat. So they're aware that at some point, there could be a trigger where they're going to need to install the sidewalk even if -- even if it's not technically shown on their -- their initial stage.

MR. STRODTMAN: Thank you.

MS. BURNS: I have a question for staff, and I don't know if you have this information. Looking at this road, do public buses or school buses collect children from this area?

MR. SMITH: Yeah. I don't know if I could answer that.

MS. BURNS: Okay. Thank you.

MR. SMITH: I'm sorry.

MR. REICHLIN: Anybody else? I'm torn by this, as well. I -- I'm hesitant to have sidewalks go in before major road -- you know, potential major reconstruction comes to the area. But then, at the same time, what's the point of having policies if you don't follow them. So I can see the struggle that staff has to deal with and mentioned from the other Commission members. So with that, I would entertain a motion.

MR. LEE: Well, before entertaining a motion, I would just like to say that I understand staff is bound by policy. There are things on paper that you are bound to follow, but there's got to be some logic involved, you know? It doesn't make sense to make these people build 30 feet of sidewalk that no one is going to use. That just doesn't make any sense, especially when the City is going to come in at some point down the road, at some point in time, and completely resurface that road and put in sidewalks at that time. And that could be ten years from now, so these two five-foot, thirty-foot, whatever it is, fifteen feet of sidewalk on either side are not going to be used by anybody. Even the homeowner is not going to use them. So it just makes no sense to not grant the variance.

MR. STANTON: Question to staff. The speaker mentioned that the cost could be transferred to the owner once road improvements have been made; is that correct? How does that fit into the rule of law?

MR. SMITH: I think he was referring to the possibility that the City could come back later and recoup the costs for installing the sidewalk, I think, through tax billing. But I think if, in the future, if they did a whole roadway construction, I don't think that's the tack they would take in that situation. I think that's more -- you know, I don't know that situation where that would happen. I haven't been involved where they have done that. So usually, I think -- currently anyway, I don't think they extract anything from directly affected property owners on major roadway improvements.

MR. ZENNER: Typically, what one would end up doing, that tax-billing process would be normally used where we do have an improved street section of curb and gutter, and we are doing a City sidewalk project. Unfortunately, with many of our sidewalk and reconstruction projects that we have done where sidewalks did not previously exist on curbed streets within the central City area -- Hunt Avenue, for example -- we rebuilt all of Hunt. And as part of complete streets program, we put sidewalks in. Scott Boulevard, brand-new construction south of Vawter. We will put sidewalks in and sidewalks that may have been installed or we may have had a fee in lieu of sidewalk installation provided for -- a fee in lieu of funds would have gone to the overall construction projects. But if we required sidewalks to be placed at grade in the path of a future project, the removal of those sidewalks placed for an interim period of time would be incorporated in the construction project to reconstruct that entire roadway and would not be tax billed against the property owner. Again, it wrestles to the principle of complete streets and the provision within the code. The practicality of it is really why the variance process is established. The Commission and the Council have the authorities to both make recommendations that take the practical view, not the regulatory, and that is, hence, the decision why we are comfortable bringing these issues to you while they may seem not making much sense. It's because we just aren't authorized to do so. We have to let you, as the decision-making and recommending body, pass that on to Council. They may ultimately see it the

same way, or they may see it as staff sees it, that we have a regulation and we should apply it.

MR. REICHLIN: Mr. Tillotson?

MR. TILLOTSON: I enjoyed hearing what Mr. Reed had to say and I thoroughly agree with you. But with that said and done, I'm going to support staff and recommend denial of variance to Section 25-48.1, Case 15-57.

MR. REICHLIN: Do we have a second? I'll second it. Are you ready?

MR. STRODTMAN: This is for the denial of Case 15-57 variance.

Roll Call Vote (Voting "yes" is to deny approval.) Voting Yes: Mr. Reichlin, Mr. Tillotson, Ms. Burns. Voting No: Ms. Loe, Mr. Stanton, Mr. Strodtman, Ms. Russell, Mr. Lee. Motion failed 3-5.

MR. STRODTMAN: The nos have it. The denial of the variance is approved. No.

MS. LOE: No.

MR. STRODTMAN: The opposite of that.

MR. REICHLIN: Is that satisfactory, that we -- that we -- that we handle it that way?

MR. ZENNER: Uh-huh.

MR. REICHLIN: Or should we make a motion --

MR. STANTON: Yeah.

MR. LEE: Do we have to have a motion.

MR. REICHLIN: -- for approval of the variance.

MR. SMITH: No. I think -- I think motion is fine.

MR. REICHLIN: Is that -- we don't have to have another vote?

MR. LEE: We don't have to have another vote?

MR. SMITH: I don't think so. I mean, it's --

MR. STANTON: We can clean it up, just make another motion.

MR. SMITH: Yeah. We probably --

MR. ZENNER: That's -- the motion failed.

MR. STRODTMAN: The motion failed. Correct.

MR. SMITH: Just to be clear, why don't we make a motion to approve, and then we'll -- we voted on that.

MR. STRODTMAN: The motion failed 5-3.

MR. ZENNER: That's correct. Do you -- as a motion failed, do -- is there another motion?

MR. STANTON: I'll make a motion.

MR. REICHLIN: Mr. Stanton, please.

MR. STANTON: Case No. 15-57, I move to approve -- approval of a variance to Section 25-48.1.

MR. LEE: Second.

MS. RUSSELL: I'll second that.

MR. REICHLIN: Mr. Lee?

MR. STRODTMAN: Okay. This is for approval of the variance.

Roll Call Vote (Voting "yes" is to recommend approval.) Voting Yes: Ms. Loe, Mr. Stanton, Mr. Strodman, Ms. Russell, Mr. Lee. Voting No: Mr. Reichlin, Mr. Tillotson, Ms. Burns. Motion carries 5-3.

MR. STRODTMAN: Fives -- oh, I'm sorry. Five for yes. Is that right? Yes. That's correct. There's five yeses, three nos, so the approval of the variance is approved.

MR. REICHLIN: Thank you, sir. Okay. Moving right along.