



City of Columbia

701 East Broadway, Columbia, Missouri 65201

Department Source: Community Development - Planning

To: City Council

From: City Manager & Staff

Council Meeting Date: April 4, 2016

Re: Nifong Breaktime Sidewalk Variance (Case #16-50)

Executive Summary

Approval of the request will result in approval of a sidewalk variance that will waive the responsibility of the property owner to install sidewalks along Nifong Boulevard, in exchange for additional right of way and easement dedications.

Discussion

Crockett Engineering Consultants (agent), on behalf of MFA Petroleum Company (owner), is requesting variances from Sections 25-48 and 24-35 of the City Code that would, if approved, waive the requirement to install approximately 275-feet of sidewalk along Nifong Boulevard in front of the Break Time gas station located at 110 Nifong Boulevard. The requirement for sidewalk installation was triggered by a building expansion that is proposed on the site. The subject site is located at the southeast corner of Nifong Boulevard and Peachtree Drive, approximately 1,000 feet west of Providence Road.

Sidewalks are absent from the south side of Nifong Boulevard between Providence Road and Bethel Street; there are two sidewalk segments on the north side of the road, northeast and northwest of the subject property, but the majority of roadway frontage lacks sidewalks.

Staff evaluated the requested variance from Section 25-48 (Sidewalks) based on conditions listed in Section 25-20 (Variances and exceptions) of the Subdivision Regulations, and also evaluated the variance from Section 24-35 (Streets, Sidewalks, and Public Places) based on factors listed in Section 24-35(d). After considering the existing conditions and the applicant's responses, staff found that the variance requests were not supported.

In response, the applicant has agreed to an alternative arrangement, allowed per PR48-06A (Sidewalks along unimproved streets), which would result in the dedication of five feet of additional right of way and easements along Nifong Boulevard. The dedications will aid in the future expansion of Nifong Boulevard as contemplated in the FY 2016 CIP. The proposed dedications would allow the City to construct the sidewalk within the context of the larger street improvement.

The Planning and Zoning Commission considered this request at its meeting on February 4, 2016, and recommended unanimous approval (8-0) subject to the condition that a deed of dedication for the additional right of way and easements be obtained. The applicant agreed to the conditions of approval and has supplied the necessary deed and easement documents. No one from the public spoke during the meeting.



A copy of the staff report (including locator maps, variance worksheet, CIP excerpts, and PR48-06A), Deed of Dedication form, street and utility easements, and excerpts from minutes are attached.

Fiscal Impact

Short-Term Impact: The cost of sidewalk construction is offset by right of way and easement dedications that enable the sidewalk to be properly located within the Nifong Boulevard CIP project.

Long-Term Impact: Future maintenance of the sidewalk will be the responsibility of the property owner.

Vision & Strategic Plan Impact

Vision Impacts:

Primary Impact: Transportation, Secondary Impact: Not Applicable, Tertiary Impact: Not Applicable

Strategic Plan Impacts:

Primary Impact: Infrastructure, Secondary Impact: Not Applicable, Tertiary Impact: Not Applicable

Comprehensive Plan Impacts:

Primary Impact: Mobility, Connectivity, and Accessibility, Secondary Impact: Not applicable, Tertiary Impact: Not Applicable

Legislative History

Date	Action
N/A	NA

Suggested Council Action

Approval of the requested variances as recommended by the Planning and Zoning Commission and acceptance of the Deed of Dedication for additional right of way and sidewalk and utility easements.

Introduced by _____

First Reading _____

Second Reading _____

Ordinance No. _____

Council Bill No. B 82-16

AN ORDINANCE

granting a variance from the Subdivision Regulations, and a waiver from the requirements of the City Code, relating to construction of a sidewalk along a portion of the south side of Nifong Boulevard and east of Peachtree Drive (110 Nifong Boulevard); accepting a deed of dedication for roadway purposes and conveyances for street and utility purposes; directing the City Clerk to have the conveyances recorded; 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 sidewalk construction requirements of Section 25-48.1 and Section 24-35 of the City Code as it relates to the construction of sidewalks along a portion of the south side of Nifong Boulevard and east of Peachtree Drive (110 Nifong Boulevard).

SECTION 2. The City of Columbia accepts the following conveyances:

Deed of Dedication for roadway purposes from MFA Petroleum Company, dated March 14, 2016, a copy of which is attached to this ordinance.

Grant of Easement for street purposes from MFA Petroleum Company, dated March 14, 2016, a copy of which is attached to this ordinance.

Grant of Easement for utility purposes from MFA Petroleum Company, dated March 14, 2016, a copy of which is attached to this ordinance.

SECTION 3. The City Clerk is authorized and directed to have the conveyances recorded in the office of the Boone County Recorder of Deeds.

SECTION 4. This ordinance shall be in full force and effect from and after its passage.

PASSED this _____ day of _____, 2016.

ATTEST:

City Clerk

Mayor and Presiding Officer

APPROVED AS TO FORM:

City Counselor

SUPPORTING
DOCUMENTS FOR
THIS AGENDA ITEM

**AGENDA REPORT
PLANNING AND ZONING COMMISSION MEETING
February 4, 2016**

SUMMARY

A request by Crockett Engineering Consultants (agent) on behalf of MFA Petroleum Company (owner) for a variance from Sections 25-48 and 24-35 of the City Code pertaining to sidewalk construction on property platted prior to 2001 and located along arterial or collector streets. The subject site is located at the southeast corner of Nifong Boulevard and Peachtree Drive, approximately 1,000 feet west of Providence Road, and addressed as 110 East Nifong Boulevard. **(Case #16-50)**

DISCUSSION

The applicant is requesting a variance from the requirement to construct a sidewalk along the property's approximately 275-foot Nifong Boulevard frontage. The applicant is required to construct sidewalks due to the expansion of the existing building on the site.

The first variance is from Section 25-48, which requires sidewalks on all property included on plats approved prior to 2001. The second variance is from Section 24-35 which requires sidewalks to be constructed on property located along arterial or collector streets which are zoned for a commercial, office or multifamily use. Nifong is considered a major arterial and the subject site is zoned C-3.

Because Nifong is currently an unimproved road (i.e., lacks curb and gutter), the request is evaluated based on standards included in Council Policy Resolution 48-06A, which 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. It is important to note that the City's FY2016 Capital Improvement Program (CIP) includes a planned street project for this portion of Nifong that includes the construction of additional lanes and would include sidewalk construction.

The criteria below are used when evaluating whether to grant a variance from 25-48 based on Resolution 48-06A. Staff's evaluation is listed after each condition, followed by their determination if the condition is met (shown in CAPS and BOLD)

Variance from Section 25-48 (Subdivisions; Sidewalks generally (plats approved before January 1, 2001))

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

Estimated construction costs provided by the applicant are 24% of the total cost of the exterior addition of the building that is triggering the requirement to construct sidewalks. **FACTOR NOT SUPPORTED**

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

The construction of a sidewalk in the standard location would be very difficult to construct due to it being built over drainage structures. The sidewalk would need to be moved to a location on the applicant's property, but sidewalk construction is feasible. **FACTOR NOT SUPPORTED**

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

The site is located within a highly-developed commercial area that includes restaurants and retail establishments, with the exception of a large undeveloped tract of land approximately 500 feet to the west of the subject property. Nifong has with minimal existing sidewalks; however, Peachtree Drive (adjacent to the west of the site) and Monterey Drive (north side of Nifong) both include substantial section of sidewalk. Nifong is identified as a Major Arterial (not a local street), with substantial levels of traffic present. There will be a future construction project to widen Nifong Boulevard. A part of this project includes the construction of sidewalks through the length of the project. **FACTOR NOT SUPPORTED**

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

The site is located within a highly-developed commercial area that includes restaurants and retail establishments. Rock Bridge High School and Gentry Middle School are located approximately 1,200 feet south of the property, and Cosmo-Bethel Park is located just south and west of those locations. **FACTOR NOT SUPPORTED**

Variance from Section 24-35 (Streets, Sidewalks, and Public Places; Sidewalks Required)

The second part of the applicant's request relates to Section 24-35 of the City Code, which requires a sidewalk to be installed on commercial zoned properties along arterial and collector streets. The applicant is requesting a variance from this requirement, which was triggered due to new construction on the site. In determining the need for the sidewalk, Section 24-35(d) provides the following factors for consideration:

1. Pedestrian traffic generators such as parks and schools in the area;

The site is located within a highly-developed commercial area that includes restaurants and retail establishments. Rock Bridge High School and Gentry Middle School are located approximately 1,200 feet south of the property, and Cosmo-Bethel Park is located just south and west of those locations. **FACTOR NOT SUPPORTED**

2. The existence of a sidewalk network in the area;

Nifong has with minimal existing sidewalks; however, Peachtree Drive (adjacent to the west of the site) and Monterey Drive (north side of Nifong) both include substantial sections of sidewalk. All undeveloped property to the west of the site will also require sidewalk construction at time of development. In addition, all other surrounding properties with similar characteristics to the subject property (commercial zoning, located on a collector or arterial) may be required to construct sidewalk in the future as well. **FACTOR NOT SUPPORTED**

3. The density of current and future development in the area;

The site is located within a highly-developed commercial area that includes restaurants and retail

establishments. Nearby undeveloped property will also be improved with commercial uses in the future. **FACTOR NOT SUPPORTED**

4. The amount of pedestrian traffic likely to be generated by the proposed development;

As a vehicle-oriented business, it is unlikely that the site will generate high levels of pedestrian traffic. However, as the business provides convenience items, it is likely that the site will generate pedestrian traffic from the surrounding residential users. **FACTOR SUPPORTED**

5. The cost of constructing the sidewalk;

Estimated construction costs provided by the applicant are 24% of the total cost of the exterior addition of the building that is triggering the requirement to construct sidewalks. **FACTOR NOT SUPPORTED**

6. Whether the terrain is such that a sidewalk is physically feasible; and

The construction of a sidewalk in the standard location would be very difficult to construct due to it being built over drainage structures. The sidewalk would need to be moved to a location on the applicant's property, but sidewalk construction is feasible. **FACTOR NOT SUPPORTED**

7. The extent to which trees, ground cover and natural areas would be impacted by the sidewalk.

The amount of vegetation other than grass that would be impacted is minimal. **FACTOR NOT SUPPORTED**

Conclusions

Staff finds that the request does not meet the standards for granting a variance for sidewalk installation on the subject property. However, per Resolution 48-06A, the City may approve the variance if an equitable arrangement for construction of the sidewalk is reached between the City and applicant. With that in mind, the applicant has agreed to dedicate five feet of additional right of way (ROW) along Nifong that will complement the planned future improvements of Nifong as identified in the FY2016 CIP. Currently, the amount of ROW adjacent to the site would necessitate the City's purchase of additional property from the property owner to enable the planned improvements to Nifong, which will include the installation of sidewalks along the property's frontage. In addition, the applicant will grant an additional easement along the new property line that can be used for utilities or other infrastructure purposes.

The proposed arrangement would delay the construction of sidewalk on the property, but given the near-term construction plans for Nifong included in the CIP, this delay enables the sidewalk to be constructed at the same time as the roadway is improved thereby eliminating the likelihood of future construction conflicts. Additionally, the right of way dedication is believed to be a financially equitable solution when compared to the costs of constructing the sidewalk at this time.

RECOMMENDATION

Approval of the requested variance, subject to the submission of a deed of dedication for the additional right of way and the granting of additional easements.

SUPPORTING DOCUMENTS (ATTACHED)

- Locator maps
- Variance Worksheet from applicant
- CIP (page 97)
- PR 48-06A

SITE CHARACTERISTICS

Area (acres)	1.27
Topography	Slight slope to the southwest
Vegetation/Landscaping	Turf, landscaping
Watershed/Drainage	Mill Creek
Existing structures	Gas station

HISTORY

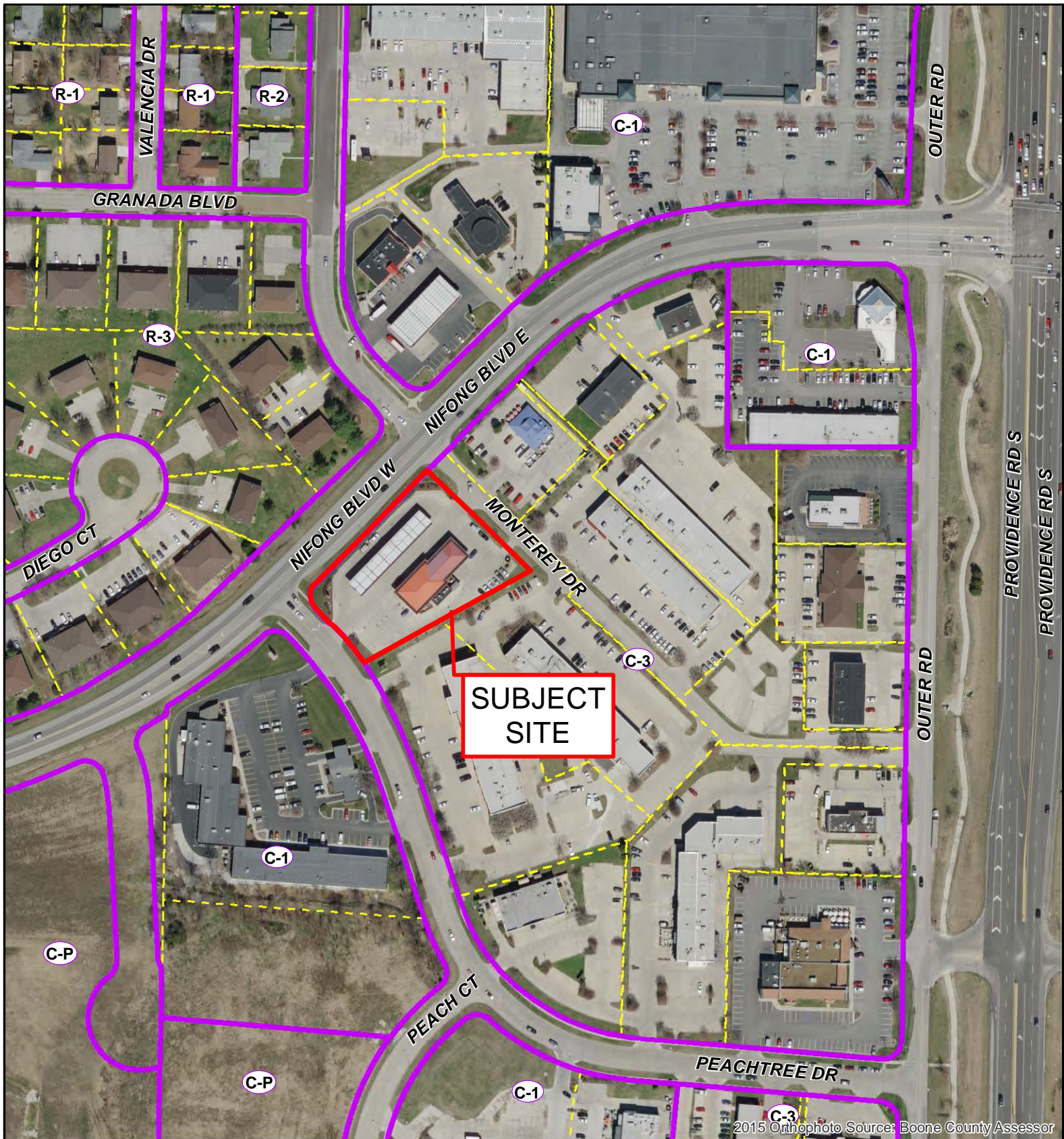
Annexation date	1966
Zoning District	C-3
Land Use Plan designation	Business District
Previous Subdivision/Legal Lot Status	Legal Lot

ACCESS

Nifong Boulevard	
Location	North side of site
Major Roadway Plan	Major Arterial (unimproved & City-maintained). Minimum 106-foot width (53-foot half width) required.
CIP projects	See attached excerpt from CIP.
Sidewalk	Sidewalks required.

Report prepared by Clint Smith

Approved by Patrick Zenner



2015 Orthophoto Source: Boone County Assessor

16-50: Nifong Breaktime Sidewalk Variance

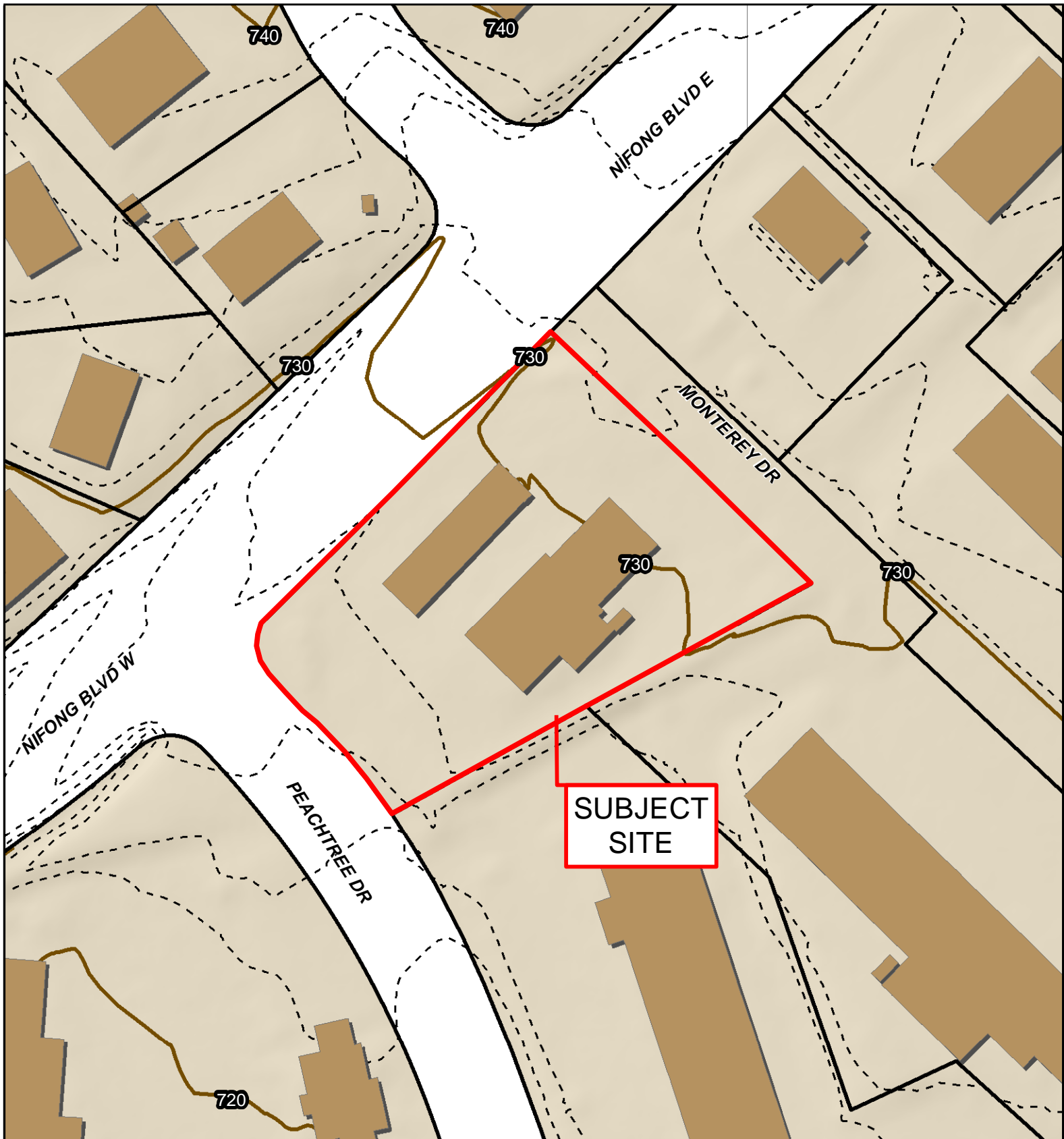


City of Columbia Zoning



Parcels



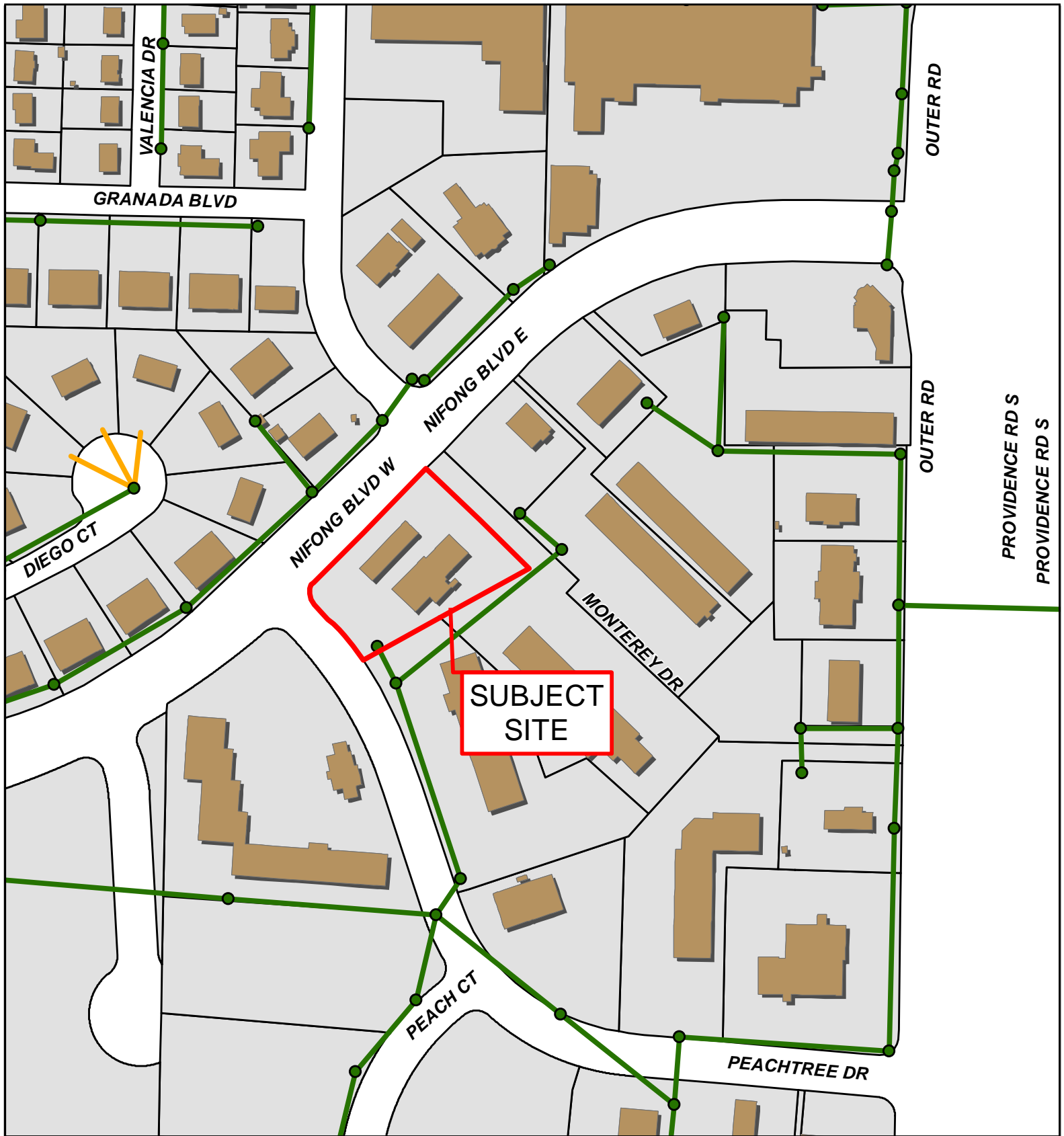


16-50: Nifong Breaktime Sidewalk Variance



- 10 Foot Contour Lines
- - - 2 Foot Contour Lines
- ▭ Parcels
- Building Footprint





16-50: Nifong Breaktime Sidewalk Variance



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





City of Columbia
Planning Department
701 E. Broadway, Columbia, MO
(573) 874-7239 planning@gocolumbiamo.com

Sidewalk Variance Worksheet
(for sidewalks along unimproved streets)

For office use:

Case #: 16-50	Submission Date: 12/18/15	Planner Assigned: SMITH
------------------	------------------------------	----------------------------

Please answer the following questions:

1. What is the cost of constructing the sidewalk, relative to the cost of the proposed development?

The cost of constructing the sidewalk is 24% of the total cost of the exterior addition of the building that is triggering the sidewalk requirement.

2. Is the terrain such that sidewalks or walkways are physically feasible?

The construction of the sidewalk is located such that it is not physically feasible if built in the standard location due to being built over a storm water swale. The sidewalk could be moved to a location on the applicant's lot but then would cause the applicant not to comply with open space minimums.

3. Would the sidewalk be located in a developed area, on a low traffic volume local street without sidewalks?

The sidewalk would be located in a developed area on a high traffic volume road that currently has minimal sidewalks installed.

4. Are there any current or future parks, schools or other pedestrian generators near the development for which a sidewalk or walkway would provide access?

There is a school and park approximately half a mile away. Sidewalks are not currently constructed to connect MFA Oil Company's building to these locations.

If an alternative walkway is being proposed, please describe how the alternative would deviate from standard sidewalk requirements.

No physical alternative walkway is being proposed. However, a payment-in-lieu option is being proposed.

If applicable, please attach a map showing the proposed alternative walkway alignment.

Nifong -Providence to Forum 4 Lane - C00643

Description:

Add additional lanes for approximately 5,400 LF of roadway. Many intersections, driveways, additional sidewalks etc.

Ward	Begin Design	Begin Construction
5	2016	2017
Eligible for Percent for Arts?		No
Current Funding Request:		\$10,600,000
Total Appropriated:		\$1,700,000
Total City Project Cost:		\$12,300,000
Est. Project Balance: 10/01/2015		\$1,700,000

Current Status:

Future project. Funding needed.

Factors Effecting Timing/Completion of Project:

Funding

Eligible Funding Sources:

Future ballot

Master Plan:

None

FY	Eligible Funding Sources	Amount
2017	Cap Imp S Tax - 2017 Bond	\$7,000,000
2016	Co Rd Tax Reb	\$1,180,000
2017	Co Rd Tax Reb	\$1,700,000
2016	Development Fees	\$520,000
2017	Development Fees	\$1,200,000
2017	STP	\$700,000
		\$12,300,000



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

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.

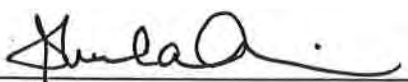
SECTION 8. In all cases, when alternative walkways or payments under Section 7 are approved as fulfilling the subdivision requirements for construction of sidewalks, the action of Council shall be noted on a final plat of the properties affected. In cases where final plats have been previously approved,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

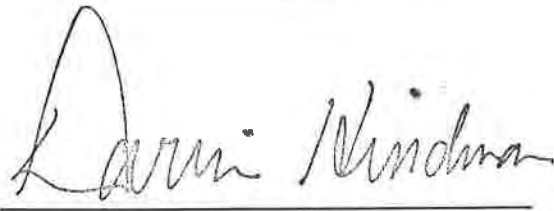
SECTION 10. This resolution replaces Policy Resolution 171-01A which is hereby repealed in its entirety.

ADOPTED this 20th day of march, 2006.

ATTEST:



City Clerk



Mayor and Presiding Officer

APPROVED AS TO FORM:



City Counselor

EXCERPTS
PLANNING AND ZONING COMMISSIONERS MEETING
FEBRUARY 4, 2016

Case No. 16-50

A request by Crockett Engineering Consultants (agent) on behalf of MFA Petroleum Company (owner) for a variance from Sections 25-48 and 24-35 of the City Code pertaining to sidewalk construction on property platted prior to 2001 and located along arterial or collector streets. The subject site is located at the southeast corner of Nifong Boulevard and Peachtree Drive, approximately 1,000 feet west of Providence Road and addressed as 110 East Nifong Boulevard.

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

Staff report was given by Mr. Clint Smith of the Planning and Development Department. Staff recommends approval of the requested variance, subject to the submission of a deed of dedication for the additional right-of-way and the granting of additional easements.

MR. REICHLIN: Are there any questions of staff? Seeing no one. Thank you.

MR. SMITH: You're welcome.

MR. REICHLIN: Okay. As has been our custom, if there's anybody in the audience who would care to come forward and go over any of the items involved in this matter, we would be happy to hear from you at this time. Seeing no one. I'll turn this matter over to my fellow members of the Commission. Mr. Stanton?

MR. STANTON: Staff made a good case. It looks like it's a good night for sidewalk variances tonight, so --

MR. REICHLIN: Yeah. We should jump on it, Mr. Stanton.

MR. STANTON: Can I go ahead and make a motion then?

MR. REICHLIN: Go right ahead.

MR. STANTON: As it relates to Case 16-50, approval of the requested variance subject to submission of a deed of dedication for additional right-of-way and granting of additional easements.

MS. RUSSELL: I'll second that.

MR. REICHLIN: That was Ms. Russell. May I have a roll call, please?

MR. STRODTMAN: Yes, sir.

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

MR. STRODTMAN: Motion has approved -- has been approved and will be forwarded to City Council for their consideration.