



DEPARTMENT OF COMMUNITY DEVELOPMENT SERVICES

Planning Division

m e m o r a n d u m

TO: Bruce K. Walden, Chief Administrative Officer

FROM: Elizabeth H. Tyler, AICP, Director/City Planner

DATE: March 22, 2007

SUBJECT: Development standards concerning Brickhouses Road Subdivision (Plan Case No. 2019-S-06)

This memorandum is intended to respond to specific issues raised about the Brickhouses Road Subdivision plat at the March 19th City Council meeting.

As previously discussed, under Section 21-7 of the Subdivision Ordinance, the City Council may grant waivers from strict compliance with the Ordinance if all the following apply:

- (1) There are conditions of topography or other site specific reasons that make the application of any particular requirement of the land development code unnecessary or, in some cases perhaps, even useless;
- (2) The granting of the requested waiver would not harm other nearby properties;
- (3) The waiver would not negatively impact the public health, safety and welfare, including the objectives and goals set forth in the comprehensive plan.

In granting waivers the public's essential interest must remain protected. These are the parameters for City Council action in this case. Also important to consider is the potential for precedent setting when waivers or deferrals are granted. While each subdivision is unique, the equity and fairness of allowing a cost-saving waiver or deferral to one developer, when others have been required to comply with requirements must be considered.

What are the alternatives and consequences of design waivers?

Street width. The applicant has requested a waiver to construct a 25-foot wide street rather than the standard 31-feet as required by the Subdivision Ordinance.

Sufficient street width is important for emergency access and setup. Fire trucks with aerials need an on-street area 15-20 feet wide to set down stabilizer bars during a fire. This can be accommodated by twenty-eight feet of pavement with parking restricted to one side only. A 25-

foot wide street pavement width could also be acceptable if on-street parking would be prohibited, but the applicant has not agreed to do so. There are only a few instances where 25 feet width has been allowed in new subdivisions in Urbana and these situations have had alternate access and on-street parking restrictions. All other subdivisions have been required to provide at least 28 feet of paved width.

Provision for adequate emergency access is particularly important in rural areas where there is constrained access and lengthy response times. For Brickhouses Subdivision, it is not difficult to imagine a situation in which a party or wedding at the subdivision would result in extensive on-street parking and blocked emergency access during the very time that medical and fire emergencies are most likely to occur (i.e., during assembly of individuals).

City staff continues to recommend approval of a waiver for the street width from 31 to 28 feet, and would also consider a waiver to 25 feet if on-street parking were prohibited (recognizing, however, that enforcement would likely be a problem as the subdivision will not be within the City limits). **If Council approves a 25-foot waiver, staff urges that it be accompanied by a restriction for no on-street parking in order to protect the health, safety, and welfare of the future residents.** Parking provisions should also be explicitly addressed in the subdivision covenants to prohibit on-street parking and to require off-site parking for gatherings above a certain size. This safety provision is common in other rural subdivisions.

Sidewalks. The applicant has requested a waiver to allow construction of no sidewalks along Brickhouses Road, but at the March 19th City Council meeting, the applicant stated that deferral of sidewalks would be acceptable. City staff and Plan Commission have already recommended deferral of sidewalks along the north side of Airport Road until such time as increased development in the area justifies it and/or improvements to Airport Road occur. Staff would further accept deferring sidewalks along both sides of Brickhouses Road until the Airport Road sidewalks will be installed. This would mean that sidewalks on both roads could be installed at the same time. Should all sidewalks be deferred, the subdivision plat needs to indicate its future location, and the homeowners covenants should include provisions to inform future homeowners of this future obligation. Deferral does carry a risk that some future property owners might not be able or willing to pay to install sidewalks, but sidewalk deferral is recommended as an acceptable risk for the City.

The City of Urbana has vigorously required that sidewalks be constructed on both sides of residential subdivisions for many years. The communities of Champaign, Savoy, and Mahomet are similarly vigorous in the expectation that sidewalks be provided in all residential subdivisions. As a general rule in Urbana, waivers have only been granted in cases where alternative pathway systems have been provided. Deferrals have only been provided in cases where sidewalks along major roadways are lacking in the vicinity. Of the subdivisions in northeast Urbana, those that have been developed under the jurisdiction of the City of Urbana have had to install sidewalks, including those that might be classified as rural subdivisions with cul-de-sac streets. Developments in the vicinity that lack sidewalks were either under the jurisdiction of Champaign County or date back 30 to 40 years.

Because of the precedent setting nature of this decision, it must be clear that sidewalks along Brickhouses Road are being deferred solely because of the low traffic volumes that

are expected and the unique circumstances of the Brickhouses Subdivision and that sidewalks will be required to be constructed at such time as a network is established in the area. Nonetheless, this decision could have incrementally negative consequences on the ultimate success of establishing a sidewalk network in northeast Urbana.

Sewers. A solution suggested at the March 19th City Council meeting would be to defer sewer installation and collect fees when lots are sold to pay for future installation. Issues with this include:

- It would be impossible to know how much to collect. The cost to install a sewer line now is known, but to install at some unspecified future date (5-25 years?) is a cost impossible to predict.
- Collecting fees and managing such a fund would likely cost public manpower.
- Even if a fund were available, organizing and coordinating multiple property owners and contractors would be time-consuming and difficult.
- These problems would be compounded should sewer deferral set a precedent and other developers follow suit.

It was also been suggested that on-site septic systems are environmentally friendly. According to the Illinois Environmental Protection Agency,

A properly-functioning septic system will remove most disease-causing organisms and some nutrients and chemicals from wastewater. However, it will not remove or treat many water-soluble pollutants such as solvents, drain cleaners, and many household chemicals. Consequently, the proper location, design, construction, operation, and maintenance of septic systems are critical in areas close to lakes and streams as well as in shallow groundwater zones. ... Septic systems can be safe and effective so long as installers design, locate, and construct systems correctly, **and** homeowners actively monitor and maintain them.

Septic systems that are not functioning properly can pose a health threat by allowing sewage to contaminate drinking water. The ecology of nearby lakes can be harmed as well. Sewage is high in phosphorus, which usually is the nutrient limiting algae and rooted aquatic plant growth in Illinois lakes. Discharge of septic tank effluent to a lake or tributary stream, either through overland flow or groundwater seepage, can contribute to localized increases in algae or aquatic plant growth. In extreme cases, the oxygen depletion associated with untreated sewage can even kill fish. Widespread discharge to a lake over a period of time can significantly accelerate the lake's eutrophication ("aging") rate. Because phosphorus is very slow to leave a lake system, sewage inputs often have lingering effects long after they have been discontinued. Bacterial contamination can be a concern if the lake is used as a source of drinking water or for body contact recreation such as swimming. ("Septic Systems", Illinois Environmental Protection Agency, 2000)

The best solution remains installation of a sewer line at the time of development rather than granting a waiver. This is the firm recommendation of City staff, Plan Commission, and the UCSD.

The City must also consider the precedent setting nature of this decision. For several decades, the City and UCSD have considered the extension of sanitary sewers to new development to be

desirable for the protection of the health, safety, and welfare of the residents of the community. This commitment to extension of sanitary sewers is reflected in District's Master Plan and in the policies of Champaign and Savoy. The City of Urbana has previously required that sanitary sewers be installed in advance of service at other locations. The Somerset Subdivision which is only one-half mile west of this site has paid for the extension of sanitary sewers throughout their development. By not requiring the installation of sewers at this time, the Council will be allowing a cost saving measure for an upscale subdivision that was not required for more modest subdivisions in the nearby vicinity. Other developers will justifiably request that they too not be required to install sewers. With this new precedent established, the City and UCSD will be unable to incrementally provide for a sanitary sewer system in northeast Urbana. The long term inability to provide sewers to this area would be a direct contradiction to the City's Comprehensive Plan which depicts the subject site and surroundings for "residential" (not rural residential) development.

Should the City Council decide to waive the requirement for the installation of sanitary sewers at this location, then a condition should be added to require that the homeowner's covenants provide for establishment of a special service area to pay for the construction of sanitary sewers in the subdivision at such time as service is required by a governing authority (to include the City, UCSD, and EPA) to protect the health, safety or welfare of area residents (in the case of septic failure, for example), or such time as sanitary service is located within 350 feet of the boundary of any portion of the subdivision.

What is the difference between a rural subdivision and a conservation subdivision?

A subdivision which is rurally located is different than a subdivision designed for conservation purposes. Although Brickhouses Road Subdivision is rural because of its setting, it is not inherently a conservation-oriented subdivision. Half-acre and one-acre lots characterize a development pattern which is neither urban nor rural and which has few of the benefits of these other subdivision types. Conservation subdivisions, designed to preserve rural open space for future generations, typically have smaller, clustered house lots surrounded and hidden by permanently protected natural areas. These conservation areas are typically collectively owned by a homeowners association and protected from development in perpetuity through private covenants. Other times such open spaces are protected by easements held by a third-party such as conservation organizations. Homes in conservation subdivisions are typically set aside on the least ecologically sensitive land and hidden from view from the main roadway.

Will Brickhouses Road Subdivision remain rural?

Because subdivisions can set the development pattern for a century or longer, the City must hold a long-term view in approving plats. Even with the applicants' plans to install a garden and restore woodland and prairie on her lot, at some point in the future the 10-acre tract will logically be developed as an adjoining residential subdivision. Whether it would be one year or 25 years in the future is unknown, but it seems inevitable that it will happen. To the City's knowledge there are no assurances that the proposed reforestation, aquatic habitat, and prairie grass restoration would be maintained by future property owners.

Despite its current rural setting, the following factors favor eventual development of this area.

- This subdivision itself is an indication of the demand for development in the area.
- The area is located within the Urbana-Champaign Sanitary District's Facilities Planning Area, meaning that policies allow this area to be served by public sewer.
- Since soil and other factors indicate this property is not Best Prime Farmland – a critical factor for Champaign County agreeing to rezone this property for a residential subdivision – it is reasonable to assume that adjoining tracts might also not be Best Prime Farmland.
- The City of Urbana's Comprehensive Plan classifies the future land use of this area (north of Airport Road) as "Residential" (illustrated on page 57 of the Comprehensive Plan). The Plan classifies the area to the south as "Rural Residential" (illustrated on page 61 of the Comprehensive Plan). Although these land use classifications represent different development densities, both are development types.
- While establishing a "rural residential" type development within a "residential" designated area of the Comprehensive Plan may not be considered problematic or incompatible, the granting of waivers for this development could establish precedents that impact the ability of other properties to develop as anticipated by the Comprehensive Plan.
- Even though Brickhouses Road Subdivision would be 1 ¼ miles from the current City limits this will change. During the period 1993-2004, the City increased in size by 2 ¼ square miles. It is impossible to predict when it would happen, but it is reasonable to assume the subdivision will someday be absorbed into or at least adjoin urban development.

Would granting waivers for basic infrastructure be fair?

The following issues should be considered:

- Would allowing no sewers be fair to other developers who have installed and capped sewer lines in the past?
- If constructed at the time of development, the developer will pass the cost of sewers to the homebuyer by increasing lot prices. A sewer line might raise the cost by roughly \$5,000 per lot. Is this too much to expect for an upscale subdivision, with lot prices in the \$100,000 and higher range?
- Is it fair to knowingly disrupt future homeowners by requiring that they install both sewers and sidewalks? Once sewer lines extend within 300 feet of the Brickhouses Road Subdivision, homeowners would be required to connect at their expense, regardless of how well their septic system would be functioning.

How does the City of Champaign deal with rural subdivisions?

At this time, the City of Champaign has not adopted different standards for rural subdivisions.

Developers may apply for waivers from Champaign's Subdivision Regulations just as can be done for the City of Urbana's standards.

What is the status of the Stormwater Detention Basin Agreement?

The City has reviewed the developer's proposed revisions to this agreement and has additional comments from the Legal Department on the document. The City is also coordinating with Somer Township Officials to determine if they would be interested in providing maintenance assurances for the basin should the homeowner's association fail to maintain it. We will continue to work with the Developer and her Attorney to refine a mutually acceptable document.

Prepared by:

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