



## DEPARTMENT OF COMMUNITY DEVELOPMENT SERVICES

Planning Division

### m e m o r a n d u m

**TO:** Mayor Laurel Lunt Prussing

**FROM:** Elizabeth H. Tyler, FAICP, Director

**DATE:** December 10, 2015

**SUBJECT:** Plan Case 2267-S-15, Request for waiver of Section 21-37 of the Urbana Subdivision and Land Development Code regarding sidewalk installation requirements for Oakbrook Circle in the Birchcrest III Subdivision (part of Yankee Ridge neighborhood)

---

### **Introduction**

On behalf of the adjacent property owners, staff has requested a waiver from the sidewalk requirements of the Urbana Subdivision and Land Development Code (Section 21-37) for a portion of the Birchcrest III Subdivision. Section 21-37 of the Code requires that sidewalks be installed on both sides of the street in residential developments. Waiving the requirement to comply with Section 21-37 would remove the requirement to complete construction of sidewalks along a cul-de-sac constructed in the 1980s.

The Urbana City Council approved the final subdivision plat for the Birchcrest III Subdivision in 1979. Since that approval, all of the required street and sidewalk infrastructure has been constructed within the subdivision with the exception of approximately 380 feet of sidewalk adjacent to and near Oakbrook Circle, a cul-de-sac serving four properties at the northeast corner of the subdivision. Staff is pursuing the waiver request to close out a long-standing issue and recognize the preferences of long-term residents in the area.

### **Background**

Birchcrest III Subdivision was approved by City Council in 1979, but as Exhibit A shows, it and the rest of the Yankee Ridge neighborhood lie outside of Urbana's corporate limits. The street and sidewalk network throughout the neighborhood has been constructed, with the exception of sections around the Oakbrook Circle cul-de-sac and a short piece designed to connect the South Vine Street cul-de-sac to Meadowbrook Park to the north. Generally the construction of public infrastructure is guaranteed by a bond posted by the developer. In this case, the developer posted real estate as security. That posted security was Lot 24 of the subdivision, at the intersection of Oakbrook Circle and Vine Street (3302 S. Vine Street). Subsequent to being posted as security,

the lot was sold during a tax sale. The guarantee of Lot 24 as security for completion of the sidewalks did not appear in the title search for Lot 24, creating uncertainty about its enforceability and what party would be responsible for the installation should the waiver not be granted.

As shown in Exhibit B, the Oakbrook Circle cul-de-sac serves four lots, two of which are developed with single-family homes and two of which are vacant. The lots containing homes are at the intersection of Oakbrook Circle and Vine Street and therefore have direct access through the lots to sidewalks along Vine Street. One of the vacant lots is owned by the owners of one of the developed lots and the final vacant lot is owned by the original developer of the subdivision.

## **Discussion**

Staff is pursuing this waiver request to remove the requirement that sidewalk be constructed along Oakbrook Circle and from the end of the Vine Street cul-de-sac to the southern property limits of Meadowbrook Park. These particular sidewalks have not been built even decades after the subdivision was otherwise completed. Exhibit C shows in white where sidewalks have been constructed in the neighborhood. Construction of these remaining sidewalk sections along Oakbrook Circle and north from Vine Street is no longer practical and is not desired by the adjacent residents.

The original plans for the subdivision included a short connector sidewalk from Vine Street to Meadowbrook Park. Initially the location of the proposed sidewalk was within public right-of-way. However, that right-of-way has since been vacated by Urbana Township and conveyed to the adjacent property owners (408 E. Oakbrook Circle and 3302 S. Vine St.). Construction and public access easements were not obtained from the property owners at the time of vacation, eliminating the possibility of constructing a public sidewalk at that location without an easement from and potential compensation to the property owners. The sidewalk would also not connect to any walkway system within the park and would require the removal of mature trees.

Original subdivision plans also included a sidewalk along both sides of the Oakbrook Circle cul-de-sac. In some areas, sidewalk construction would require removal of or likely damage to mature landscaping installed by the property owners years ago. As Exhibit D illustrates, two of the three owners of the properties along Oakbrook Circle have indicated that they do not want the sidewalks constructed. The third owner is the original developer of the subdivision and did not submit an objection when notified about the waiver request.

Sidewalks at this location would not contribute significantly to the walkability of the neighborhood as each of the developed lots has access to sidewalks along Vine Street. If the two undeveloped lots are developed in the future, the traffic volume generated by four single-family homes is minimal and would not have a significant negative impact on the residents. As the street is a cul-de-sac, the sidewalks would not lead to other sidewalks or paths or serve other residents or visitors.

According to Section 21-7 of the Urbana Subdivision and Land Development Code, the petitioner must justify the granting of a waiver from strict compliance with the Code by showing that the waiver meets certain criteria. These criteria are identified and discussed below:

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;*

The waiver affects only a small portion of a large subdivision that is well-served by sidewalks. The subject cul-de-sac is short (180 feet) and serves four properties, two of which are developed. Should the other two lots develop, the increased traffic would not significantly impact pedestrian access. Portions of the area where sidewalk would be installed if required to do so would severely impact landscaping, including mature trees and shrubs, installed years ago by the property owner. Since the developed lots are corner lots, each also has frontage along Vine Street, which is served by sidewalks on both sides of the street.

2. *The granting of the requested waiver would not harm other nearby properties;*

The cul-de-sac serves four properties; two of which are developed. The owners of three of those properties support the waiver and do not support the installation of sidewalk adjacent to their properties. The owner of the fourth property, the original developer of the subdivision, did not respond to the inquiry for input. Each of the developed properties abuts a sidewalk along Vine Street, allowing pedestrian access to public sidewalks from each home.

3. *The waiver would not negatively impact the public health, safety and welfare, including the objectives and goals set forth in the comprehensive plan.*

The users of the cul-de-sac are the residents of the two developed lots. The owner-occupants of those lots would not be negatively impacted by the waiver. They support the waiver and do not wish to have sidewalks installed. Containing only four lots, the cul-de-sac does not generate significant traffic. Therefore the general public health, safety, and welfare is also not negatively impacted by this waiver. While the Comprehensive Plan does include Goal 46.0 to improve access to transportation modes for Urbana residents, it also contains Goal 2.0 to encourage new development in established neighborhoods to be compatible with the overall design and fabric of that neighborhood. The installation of a sidewalk resulting in the removal of mature landscaping would be less compatible with the overall design and fabric of the neighborhood than not providing a sidewalk and is not desired by those most impacted.

## **Summary of Staff Findings**

1. The Urbana City Council adopted Ordinance No. 7879-95 on April 24, 1979, approving the final subdivision plat for the Birchcrest III Subdivision.

2. Staff has submitted a waiver request from the sidewalk requirements of the Urbana Subdivision and Land Development Code (Sections 21-37) for a small portion of the largely completed subdivision.
3. The proposed waiver would resolve the outstanding sidewalk issue related to the subdivision.
4. The requested waiver will not be harmful to other properties and would not negatively impact the public health, safety and welfare of the community, nor impede the attainment of goals and objectives contained in the Comprehensive Plan. Adjacent property owners support the waiver and do not support the construction of the sidewalk.

## Options

City Council has the following options regarding Plan Case 2267-S-15:

- a. Approve the requested waiver of the sidewalk requirements of the Urbana Subdivision and Land Development Code; or
- b. Deny the requested waiver of the sidewalk requirements of the Urbana Subdivision and Land Development Code.

## Staff Recommendation

Based upon the findings above, Staff recommended that the Plan Commission forward to the City Council a recommendation for **approval** of the requested waiver of the sidewalk requirements. Plan Commission will discuss the case the evening of December 10, 2015. Staff will report Plan Commission's recommendation at the December 14, 2015 City Council meeting.

Prepared By:

---

Lorrie Pearson, AICP  
Planning Manager

Attachments: Exhibit A: Location Map  
Exhibit B: Lot Ownership and Addresses  
Exhibit C: Yankee Ridge Sidewalks  
Exhibit D: Support from Residents

cc: Jonathan and Marianne Fineberg, 408 E. Oakbrook Circle  
Scott Stewart and Marcy Vancil, 409 E. Oakbrook Circle

ORDINANCE NO. 2015-12-120

AN ORDINANCE APPROVING A WAIVER OF THE REQUIREMENT  
TO CONSTRUCT SIDEWALKS AT OAKBROOK CIRCLE  
(Birchcrest Third Subdivision - Plan Case No. 2267-S-15)

WHEREAS, the Urbana City Council approved the Final Plat for the Birchcrest Third Subdivision on April 24, 1979, in Plan Case No. 1021 under Ordinance No. 7879-95; and

WHEREAS, Section 21-37 of the Urbana Subdivision and Land Development Code requires construction of sidewalks on both sides of residential streets; and

WHEREAS, the Final Plat for the Birchcrest Third Subdivision depicted a sidewalk connection from the north of the Vine Street cul-de-sac to the southern property line of Meadowbrook Park; and

WHEREAS, the public infrastructure within Birchcrest Third Subdivision has been constructed with the exception of sections of sidewalk along Oakbrook Circle and the sidewalk connection north to Meadowbrook Park; and

WHEREAS, the location of the proposed sidewalk connection to Meadowbrook Park would not connect to the existing trail system within the park; and

WHEREAS, two of the three property owners adjacent to Oakbrook Circle have requested that the sidewalk requirement be waived and that the sidewalks not be constructed; and

WHEREAS, the requested waiver would not harm other nearby properties or negatively impact the public health, safety, and welfare, and meets the waiver criteria in Section 21-7 of the Urbana Subdivision and Land Development Code.

NOW, THEREFORE, BE IT ORDAINED BY THE CORPORATE AUTHORITIES OF THE CITY OF URBANA, ILLINOIS, as follows:

Section 1. The requested waiver of sidewalk requirements of Section 21-37 of the Urbana Subdivision and Land Development Code along Oakbrook Circle and the elimination of the requirement to build a sidewalk connection from the Vine Street cul-de-sac to Meadowbrook Park in the Birchcrest Third Subdivision is hereby approved.

Section 2. This Ordinance is hereby passed by the affirmative vote of the members of the corporate authorities then holding office, the "ayes" and "nays" being called at a regular meeting of said Council.

Section 3. The City Clerk is directed to publish this Ordinance in pamphlet form by authority of the Corporate Authorities, and this Ordinance shall be in full force and effect after its passage and publication in accordance with the terms of Section 1-2-4 of the Illinois Municipal Code.

PASSED by the City Council this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

AYES:

NAYS:

ABSTAINED:

\_\_\_\_\_  
Phyllis D. Clark, City Clerk

APPROVED by the Mayor this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

\_\_\_\_\_  
Laurel Lunt Prussing, Mayor

**CERTIFICATE OF PUBLICATION IN PAMPHLET FORM**

I, Phyllis D. Clark, certify that I am the duly elected and acting Municipal Clerk of the City of Urbana, Champaign County, Illinois. I certify that on the \_\_\_\_ day of \_\_\_\_\_, 2015, the corporate authorities of the City of Urbana passed and approved "AN ORDINANCE APPROVING A WAIVER OF THE REQUIREMENT TO CONSTRUCT SIDEWALKS AT OAKBROOK CIRCLE (Birchcrest Third Subdivision - Plan Case No. 2267-S-15)," which provided by its terms that it should be published in pamphlet form. The pamphlet form of Ordinance No. \_\_\_\_\_ was prepared, and a copy of such Ordinance was posted in the Urbana City Building commencing on the \_\_\_\_ day of \_\_\_\_\_, 2015, and continuing for at least ten (10) days thereafter. Copies of such Ordinance were also available for public inspection upon request at the Office of the City Clerk.

DATED at Urbana, Illinois, this \_\_\_\_ day of \_\_\_\_\_, 2015.

(SEAL)

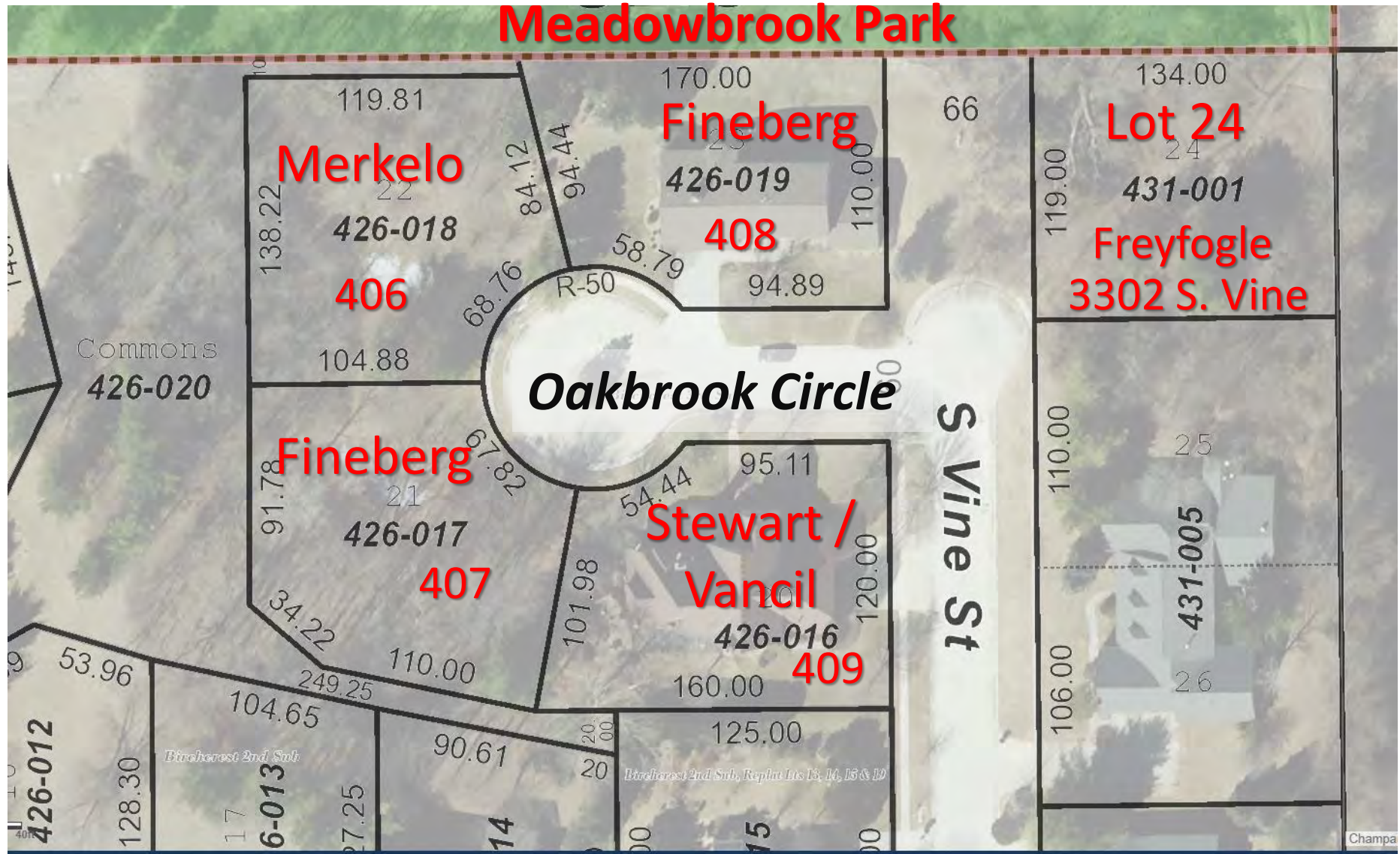
\_\_\_\_\_  
Phyllis D. Clark, City Clerk







# Exhibit B: Lot Ownership and Addresses





# Exhibit C: Yankee Ridge Sidewalks



# EXHIBIT D: Support from Residents

**Pearson, Lorrie**

---

**From:** Marianne Fineberg <mfineberg@gmail.com>  
**Sent:** Tuesday, October 27, 2015 3:37 PM  
**To:** Pearson, Lorrie  
**Subject:** Re: Oakbrook Circle sidewalk

Hello Lorrie -

Yes, you are correct, my husband and I own 407 and 408 E. Oakbrook Circle, and we are not interested in having sidewalks on the cul-de-sac. I checked with my neighbors, Scott Stewart and Marcy Vancil, who own 409 E. Oakbrook Circle. They do not want sidewalks in the cul-de-sac either. There are no other homes on the circle.

Thank you for taking the time to contact me about this matter.

Marianne Fineberg

On Tue, Oct 27, 2015 at 3:23 PM, Pearson, Lorrie <[llpearson@urbanaininois.us](mailto:llpearson@urbanaininois.us)> wrote:

Mrs. Fineberg:

Thank you for taking the time to speak with me yesterday about the developer's obligation to build a complete sidewalk around Oakbrook Circle. Original plans also show a sidewalk from the north end of the Vine Street cul-de-sac to the edge of Meadowbrook Park.

It is my understanding that as the property owner of two of the lots served by the cul-de-sac (407 and 408 E Oakbrook Circle), you do not find construction of the sidewalks necessary and would support the waiver to release the developer from his obligation to build the sidewalks.

Please let me know if my understanding is correct.

Thank you,

Lorrie Pearson, AICP, LEED AP

Planning Manager

City of Urbana

400 South Vine Street

Urbana IL 61801

[llpearson@urbanaininois.us](mailto:llpearson@urbanaininois.us)

[\(217\) 328-8262](tel:(217)328-8262)

**Pearson, Lorrie**

---

**From:** D. Scott Stewart [<mailto:stewart26@comcast.net>]  
**Sent:** Friday, November 13, 2015 5:26 PM  
**To:** Marianne Fineberg; Marcy Vancil; Pearson, Lorrie  
**Cc:** D. Scott Stewart  
**Subject:** Re: sidewalks

Dear Lorrie,

sorry we were busy. We did get the letter from Urbana and like the Fineberg's WE DONT WANT THE SIDEWALKS.

So we are happy to NOT have them and please make that exception on our account.

The Stewart-Vancils and Finebergs have the same position on this matter.

Let me know if this is sufficient.

Apologies for any perceived late reply.

Scott