

STAFF RESPONSES TO BLUFF RIDGE CONCERNS –12.17.2021

BACKGROUND

This memo was prepared at the request of City Council to provide responses to the questions and concerns raised in the subdivision approval process meetings and correspondence. Responses to duplicate and related concerns have grouped by topic to avoid repetition. Statutory references are hyperlinked to the Illinois Compiled Statutes found on the Illinois General Assembly website: <https://www.ilga.gov/legislation/ilcs/ilcs.asp>

There have been several requests for access to the documents that have been researched and referenced by staff. These documents have been compiled and posted with this memo on the City's website: <https://www.columbiaillinois.com/947/Bluff-Ridge>

TYPICAL DEVELOPMENT PROCESS

A number of concerns are predicated on a misunderstanding of the development process, along with the purpose, requirements, scope of authority, and rights conveyed at each step of the process. Below is a generalized outline of the process, including responses to the concerns/questions related to the various steps.

Annexation of Property

Annexation is the process of adding territory to a City's corporate boundaries that was unincorporated at the time it was added. The statutory authority and limitations of annexation are governed by the Illinois Municipal Code ([65 ILCS 5/7-1](https://www.ilga.gov/legislation/ilcs/ilcs.asp?ILCSID=1&ActID=100&ChapterID=1&SectionID=1)). Many annexations are requested by an owner seeking municipal utilities and services in order to facilitate development of the property. The statutes establish the minimum requirements to qualify a property for annexation and a property owner to petition. While there are no factors of consideration mandated by statute, many governing bodies adopt annexation policies to guide decision-making, such as requiring pre-existing utility/transportation access and consistency with the comprehensive plan.

Municipalities are authorized to execute Annexation Agreements in conjunction with the annexation of territory ([65 ILCS 5/11-15.1](https://www.ilga.gov/legislation/ilcs/ilcs.asp?ILCSID=1&ActID=100&ChapterID=1&SectionID=1)). They are limited to a 20-year term, but may be extended or amended. Such agreements are optional and may include provisions intended to facilitate annexation, including:

- Amendment to or waiver from municipal development requirements to allow certain uses, standards, features, dedications, etc. that would otherwise be restricted.
- Guarantee approval of requested zoning, special uses, variances, subdivisions and other development approvals. Such guarantees may not waive processes or procedures mandated by statutes or local codes.
- Exclude properties from applicability of future ordinance amendments that may conflict with development plans.
- Provide for improvements, dedications, and development/construction standards in excess of minimum requirements.
- Provide incentives like fee waivers and tax rebates, along with qualifying conditions.
- Cost-sharing arrangements for the provision of improvements, along with provisions for fiscal accountability, repayment, interest accrual, inflation, and bankruptcy.

Zoning of Property

Zoning ordinances divide a city into individual districts with similar existing and planned characteristics, restrict the use of land within each district to uses that are compatible with the desired characteristics, and establish the applicable development and construction standards within each district. The boundaries of each zoning district are represented on an official zoning map, which is adopted as part of the ordinance. Municipal zoning authority is granted and regulated by [65 ILCS 5/11-13](#).

Upon annexation, a property is assigned to a zoning district that dictates how property may be used and developed. Properties within a municipality may also request a change in zoning district, which amends the zoning map upon approval. Upon a property's initial zoning approval or change in zoning district, the owner is granted the right to establish any use allowed in the zoning district and develop the subject property under the standards applicable to the zoning district ([65 ILCS 5/11-13-1](#)).

There are no statutory criteria established for approving a zoning request. However, *LaSalle National Bank of Chicago v. County of Cook*, 12 Ill.2d 40, 145 N.E.2d 65, 69 (1957) established the following criteria known as the "LaSalle Factors" that are to be used in evaluating zoning decisions:

1. Existing uses and zoning of nearby property;
2. Extent to which property values are diminished by the particular zoning restrictions;
3. Extent to which the diminishment of applicant's property values promotes public health, safety, morals, or general welfare of the public;
4. Relative gain to the public compared to the hardship imposed on the applicant;
5. Suitability of the property for the proposed use;
6. Length of time the property has been vacant as currently zoned;
7. Consistency with community land use plans;
8. Community need for the proposed use.

A zoning request can only be approved by a governing body after assessing the above factors as related to the subject property, and finding the assessment to justify the granting of said zoning designation. Therefore, we must assume that City Council took these factors into account when approving R-3 zoning for the Bluff Ridge Estates property and granted the right to develop the subject property under applicable standards.

Concerns addressed by the above discussion of zoning approval include:

CONCERN: The potential impacts to future development have not been adequately considered and addressed.

CONCERN: What will be the effect of approval on community safety, health and wellbeing?

R-3 zoning changes the character and pattern of development in vicinity.

CONCERN: Insufficient information has been provided to inform City Council of the ramifications of approving the plat.

CONCERN: Traffic congestion and safety impacts to Brellinger residents have not been adequately considered.

Subdivision of Property

Subdivision is the process whereby an individual tract of land is legally split into smaller lots, generally intended to be developed and/or sold to others. Municipal authority to adopt subdivision controls by ordinance is established and regulated by the Illinois Municipal Code under [65 ILCS 5/11-12-8](#) and the Illinois Plat Act ([765 ILCS 205/](#)). Generally, municipal subdivision regulations and govern the standards for subdivision layouts; provision of subdivision utility, transportation, and storm drainage infrastructure; and applicable design standards for required improvements.

Subdivision controls for non-home rule municipalities, such as Columbia, may only require improvements and dedications inside subdivision boundaries. Off-site improvements may be mutually agreed upon voluntarily, but may not be compulsory and subdivision approval may not be conditioned upon such an agreement.

As previously indicated, development rights are granted with zoning approval in Illinois. Therefore, subdivision approval is primarily an administrative function of local government, rather than a legislative or judicial function. Per statute and case law, corporate authorities must approve any subdivision plat that complies with the Plat Act and satisfies all municipal subdivision requirements ([65 ILCS 5/11-12-8](#); *People ex rel. Tilden v. Massieon*, 279 Ill. 312, 116 N.E. 639 [1917]). For all practical purposes, this limits the consideration of comprehensive plan compliance to matters concerning the provision of infrastructure, as other considerations are irrelevant in light of the rights granted to the owner. These facts provide further response to the concerns noted in the above discussion of property zoning.

Columbia's Subdivision Code (Municipal Code Chap. 16) provides for a 3-step subdivision approval process: preliminary plat, improvement plans, and final plat. The proposed Bluff Ridge Estates subdivision is now at the preliminary plat stage.

Preliminary subdivision approval is mainly intended to determine, prior to significant development costs being incurred, if the physical characteristics of the property can accommodate a subdivision designed to applicable regulations. This step is optional in Illinois, but the following procedural requirements are provided by statute.

- Plan Commission must approve or disapprove within 90 days of submittal;
- If disapproved, the applicant must be provided a written statement of denial citing the specific ordinance provisions the plat fails to comply with.
- If approved, the corporate authorities (City Council) must accept or reject the plat within 30 days of the next meeting after the Plan Commission action.
- If disapproved by City Council, the official action must include a written statement citing the specific ordinance provisions that the plat fails to comply with.

Concerns related to the above discussion of preliminary subdivision approval include:

CONCERN: Perception among some that the decision is being rushed or pushed through.

CONCERN: 30-day approval deadline is insufficient.

CONCERN: The community will have to live with the ramifications of a "bad" decision.

RESPONSE TO ABOVE CONCERNS: The subject property has been annexed and zoned R-3 since 1995, with the same development rights and general property conditions as exist

today. In that 26 years span, there have been 3 comprehensive plan updates that could have addressed the concerns now being voiced. Now that the property owner has submitted an application for preliminary approval, the City is bound by the statutory procedures, deadlines and approval requirements. The ultimate decision must be based on compliance with applicable requirements, regardless of how the outcome of that decision may be perceived by some in the community.

Improvement plan approval is intended to ensure the proper and adequate design of subdivision infrastructure, including applicable regulatory permitting requirements. Final engineering studies, calculations, utility capacity needs, and infrastructure locations/alignments are determined at this stage. Improvement plan technical and procedural requirements are found in local subdivision controls, rather than state statutes. However, some mandatory design standards, specifications, and permits are regulated and administered by state or federal agencies. Columbia's improvement plan requirements and procedures are provided in Sections 16.3.8 – 14 of the Subdivision Code. Upon approval, the owner is authorized to proceed with subdivision construction.

Final subdivision approval is required before any new lots created from the may be sold. The approved plat is the document that creates individual lots as conveyable real property, illustrates final subdivision improvements, and provides for certain terms or conditions that apply permanently to all property within the subdivision, such as infrastructure maintenance responsibilities or notes on regulatory requirements. Typically, a final plat is approved when subdivision improvements are complete and the individual lots are prepared to be sold and built on. Part of the approval includes the City accepting the dedication of public improvements, which upon plat approval and receipt of a bill of sale for all public infrastructure, transfers ownership to the City.

Final plat approval is governed by many of the same general procedural requirements, except that the corporate authorities must take action within 60 days of the application date, which includes Plan Commission consideration. Any plat that satisfies all municipal requirements must be approved.

Other concerns and questions specific to the Bluff Ridge Estates subdivision process include:
CONCERN: Are there really no variances requested and will the developer and City staff be required to sign an agreement stating such? Subdivision Code Section 16.6.1(A) requires subdivision variances to be applied for in writing with the filing of the preliminary plat. Variances needed for Bluff Ridge should be considered at this time.

RESPONSE: Variances are required to be requested as indicated. However, none have been requested and based on the review of staff and Plan Commission, none are required. Some commenters have indicated that the proposed street grades may require variance approval. However, the maximum street grades of Subdivision Code Section 16.4.3.F allow for approval of grades in excess of the maximum due to adverse topographical conditions.

CONCERN: State statutes (65 ILCS 5/11-91-1; 65 ILCS 5/11-91-2) govern the vacation of streets.

RESPONSE: This is true. If the preliminary plat is approved as submitted with proposed vacation of Rueck Rd., it would only authorize the applicant to request that vacation of right-of-way. The vacation could only be approved by ordinance only after the mandated process is complete, including proper notification and a public hearing.

CONCERN: Subdivision Code Section 16.5.3(E)(1) requires the improvement of streets and should apply to the Bluff Ridge subdivision.

RESPONSE: The referenced code applies only to roadways that extend beyond City limits. But, Section 16.5.3.A.1 requires all street improvements within the boundaries of the current subdivision phase being considered for approval have been provided for in compliance with the Subdivision Code. Improvements within future subdivision phases will be identified in that phase's preliminary plat and constructed with that development.

CONCERN: Rueck Parkway is being changed to a "collector street" and that it will result in removing all trees, shrubs, sculptures and total median planter area to accommodate more traffic on Rueck Parkway.

RESPONSE: This seems to be a misunderstanding of what was presented to City Council. Rueck Road is classified by the Federal Highway Administration (FHWA) as a collector between Main Street and Quarry Road. In accordance with Subdivision Code requirements, the section of Rueck Road north of Quarry Road and Rueck Parkway were also designed and constructed collector standards. This is required so that the federal functional classification of collector can be extended beyond Quarry Road as the FHWA deems appropriate.

It was also mentioned in the staff presentation that, if Rueck Road was to be upgraded to collector standards from Hoffman Estates Drive north to Rueck Parkway, it would require removing the tree line along the west side. The tree line currently provides the only screening that exists between the proposed development and adjacent Brellinger properties.

CONCERN: Proper notice was not given for the November 8 Plan Commission meeting.

RESPONSE: This is not accurate. Notices for the October 12 Plan Commission consideration of the application were sent to the applicant and owners of all 14 adjacent parcels on October 1. The Plan Commission then tabled the item to November 8. There is no statutory or local requirement to re-notify individuals in that situation. This has been verified with the City Attorney.

CONCERN: Lack of access to previous minutes, public comment and relevant documents, such as previous approvals of the subject property.

RESPONSE: Meeting minutes and agendas are posted to the City's website. Other types of documents that are not posted are available upon request or by FOIA. Staff has shared all documents that have been requested to date and will continue to do so.

CONCERN: 3 minutes is inadequate time for public commenters.

RESPONSE: The time allowed for public comment was established by ordinance. The Mayor and City Council may adopt new public comment procedures at their discretion.

LEGAL/POLITICAL CONCERNS

CONCERN: Will the City be responsible for repairing or compensating homeowners for negative effects resulting from approval?

RESPONSE: No. Development allows a municipality to grow, and broaden its tax base.

CONCERN: Who with the City can answer the questions and who is representing the interests of Brellinger residents?

RESPONSE: That is the intention of this document. However, as noted, many questions that have been posed may be premature. A preliminary plat is a conceptual document that is only intended to ensure compliance with adopted Zoning regulations, and certain aspects of the Subdivision Code (lot size, roadway width, etc.). Questions pertaining to specifics of drainage (i.e. calculations) and utilities cannot be adequately considered until the Improvement Plan phase. Improvement plans are prepared and reviewed by qualified professionals (i.e. licensed professional engineers).

CONCERN: Has the City vetted the developer and their track record with previous developments?

RESPONSE: This is not part of the development process in any municipality. In this case, the developer is also the property owner. A property owner has the absolute right to develop their property in accordance with adopted codes, regulations, and statutes applicable to the approved zoning. Certain controls are in place, throughout the process, to ensure compliance with adopted Codes and approved plans (preliminary plat, improvement plans, final plat). These controls include comprehensive inspections, surety bonds or letters of credit (if construction of improvements have not commenced), and maintenance guarantees in the form of letters of credit, bonds, or escrow agreements.

STORM DRAINAGE CONCERNS

CONCERN: What is the required compliance with applicable code requirements, statutes and regulations?

CONCERN: What are the potential flood impacts to upstream and downstream properties?

RESPONSE TO ABOVE CONCERNS: Per our Storm Water Management Code (Municipal Code Chap. 15.52), downstream properties, watercourses, channels or conduits shall not receive stormwater runoff from proposed upstream developments at a higher peak flow rate than would have resulted from the same storm event occurring over the site of the proposed development with the land in its natural, undeveloped conditions, nor shall stormwater runoff exceed the capacity of the natural drainage system. The developers will have to address the 10 year and 100 year peak flow rates.

CONCERN: Are the proposed storm detention and infrastructure sufficient?

RESPONSE: Only infrastructure locations and general sizing are reviewed at the preliminary plat stage based on preliminary estimates. The precise specifications, capacity needs, and design of storm water infrastructure is studied determined during the preparation of subdivision improvement plans, the next step in the development process if the Bluff Ridge preliminary plat is approved.

COMPREHENSIVE PLAN CONCERNS

CONCERN: The comprehensive plan is outdated and should be updated.

CONCERN: Multiple comments about the R-3 zoning district and applicable development standards being out of character with the vicinity's development pattern.

RESPONSE TO ABOVE CONCERNS: These are valid points about the comprehensive plan, but they do not apply to the current application. The City has already started a new comprehensive planning process and is actively seeking feedback through our community engagement portal, columbiacconversations.com. The current comprehensive plan recognizes that about 20% of the Northview planning area is developed out of character or has the right to develop out of character. The subject property is specifically identified to be included in this exception to the general development pattern.

It is also possible, as we saw with the Country Crossings 2 approval, that some commenters may believe that the enhanced standards of the Brellinger subdivision covenants are reflective of R-2 zoning district standards. If this is the case, it would explain why some feel R-3 district standards would significantly change the area's character.

DISAGREEMENT WITH STAFF DETERMINATION ON RUECK ROAD

The determination of City staff that Rueck Parkway was intended to replace Rueck Road, which is one basis of determining the preliminary plat's compliance with the comprehensive plan and subdivision code, has been perhaps the biggest point of contention. Staff will address these issues below with excerpts from the previously mentioned research documents.

It has been brought up that the current comprehensive plan adopted in 2005 identifies Rueck Road as a collector that is planned to be brought to City standards. Two references in particular have been mentioned.

Section III.C.1.a. Roads and Streets.

<i>Columbia, Illinois Master Plan Update</i>	<i>III. City Wide Plan</i>
a. <u>Roads and Streets.</u> Columbia's future road and street needs are related not only to internal circulation but also to the City's location within the regional transportation system.	This plan recommends upgrading of roads such as D, Gall, Rueck, Bluffside and others, to support future development in the area, and the continued upgrading of streets intersecting with Main Street. All oil and chip roads should also be evaluated for replacement with concrete.

The language only references "Rueck" without labeling Road or Parkway. This provision could equally apply to either.

Section IV.B.3 Infrastructure

3. Infrastructure
<ul style="list-style-type: none">• Primary Road Access (concrete or asphalt)<ul style="list-style-type: none">~ Illinois Old Route 3, north from I-255~ Quarry Road, east from I-255~ Rueck Road• Secondary Road Access (chip & seal, steep grades, sharp curves, no shoulders)<ul style="list-style-type: none">~ Bluffside Road~ Mule Road• City Utilities and Services

The excerpt above is found on page 35 of the current 2005 comprehensive plan. It indicates Rueck Road is planned for primary access to be upgraded to concrete or asphalt pavement. A finding of consistency with this provision was based on the staff determination and in line with that determination. Disagreement with this point has led to the assertion that the Bluff Ridge development should be responsible for upgrading Rueck Road to collector standards.

However, it must be pointed out that this provision is also found in the Northview Planning District portion of the 2001 comprehensive plan, which was the effective plan when the preliminary and final plats of the original Brellinger Subdivision and Brellinger First Addition were approved. See below.

3. Infrastructure

- a. Primary Road Access (asphalt or concrete)
 - Illinois Old Route 3, north from I-255
 - Quarry Road, east from I-255
 - Rueck Road
 - A planned realignment of IL Route 158 will probably dissect the western portion of the district and impact future land use.
- b. Secondary Road Access (chip & seal, steep grades, sharp curves, no shoulders)
 - Bluffside Road
 - Mule Road
- c. City Utilities and Services

4. Topography

- a. Open, rolling hillsides and tops with incredible vistas of St. Louis City and Mississippi River plain to the northwest
- b. Wooded slopes and natural dendritic drainage ways. Karst sinkhole topography situated in the northeast extreme between Mule and Bluffside Roads
- c. Active quarry in the central east portion of the planning district
 - Rural estate residential settings nestled between small traditional farmsteads, and commercial truck farming operations

May 16, 2001

IV-3.0

This raises several questions:

1. The 2 referenced plats were approved and presumably found consistent with the 2001 comprehensive plan. How could this be the case if these 2 subdivisions were not responsible for improving Rueck Road?
2. How can City Council justify making a conflicting interpretation of the same exact provision and applying a different standard of approval at this time for the Bluff Ridge subdivision?
3. If City Council is to accept the position that Rueck Parkway *did not* replace Rueck Road, why were the referenced subdivisions not also responsible to improve Rueck Road, or contribute toward its future upgrade?
4. If the 2 Brellinger subdivisions were not required to improve Rueck Road, which would have been in conflict with not only the comprehensive plan, but it was and still is a requirement of the Subdivision Code, how is City Council supposed to justify requiring Bluff Ridge to take on the cost burden of improving the full roadway width?

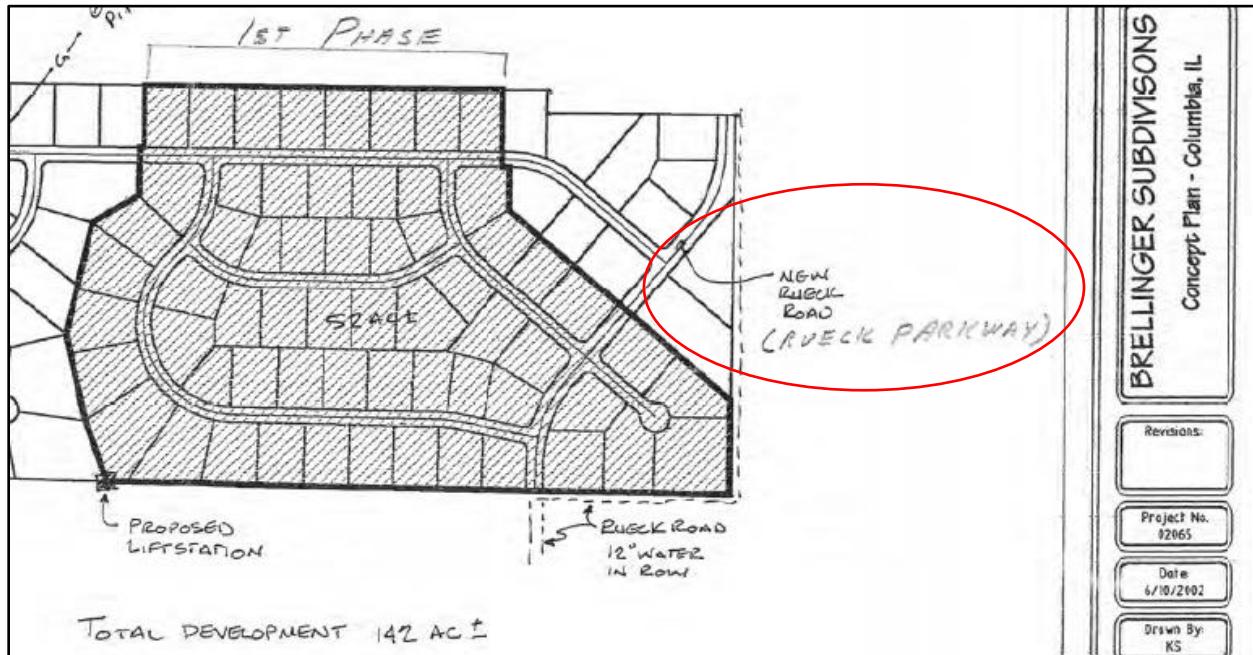
5. Point 4 above also raises another question. The Subdivision Code requires improvements to all streets within a subdivision boundary. This normally includes half of the street width where it borders the subdivision boundary. The Brellinger subdivisions only dedicated right-of-way, without responsibility for improving or contributing to improving the west half. That could only be allowed with an approved subdivision variance, yet there is no record of such approval. How were these cost responsibilities legally avoided?

The consensus of City staff is that there is only one answer: Rueck Parkway was intended to replace Rueck Road. At the very least, it was purposefully designed to serve as a future northward extension of Rueck Road's collector functional classification.

Staff also conducted research to find any supplemental information that might help substantiate the determination. All of these documents are accessible on the City website, as indicated in the first section of this document. Staff believes the plain language of several specific researched documents clearly indicate this determination to be correct. However, City Council and community members are free to draw their own conclusions from these documents. For the purposes of explaining the rationale behind staff's determination, the excerpts below focus on those documents that clearly indicate Rueck Parkway was intended to replace Rueck Road.

June 13, 2002 Letter from Brand – Subdivision Concept Design

Rueck Parkway - The attached exhibit conceptualizes an anticipated first phase which, by contract, would comprise approximately one-third of the Pfeffer Farm. Please note the proposed "Rueck Parkway" which is intended to straighten out the two right angle turns on Rueck Road. Monroe County Mapping and Platting/911 has already verbally approved the name "Rueck Parkway" for this new street. In a future development phase, we could continue Rueck Parkway North or, if preferred, Rueck Parkway could curve back into the present Rueck Road.



Staff interprets this to indicate it was Mr. Brand's idea to replace Rueck Road with Rueck Parkway as part of the Brellinger subdivision development.

September 24, 2002 Memo from Mayor to Council – Rueck Parkway Issue

DATE: September 24, 2002
TO: City Council Members
FROM: Mayor Lester Schneider

Ken Vaughn and I met with Dennis Brand to review Tom Adams' main concern about the Brellinger (Pfeffer Property) Subdivision Preliminary Plat. This involves the present alignment and future extension of Rueck Parkway (see attached).

(X) Enclosed is a copy of the pertinent section of the proposed Annexation Agreement for the adjoining property which describes the obligation of the applicant to realign and upgrade and resurface Rueck Road. We need a cooperation agreement between the City and the developer of the Brellinger Subdivision to commit to the extension and completion of Rueck Parkway in the subdivision and/or we need to include the extension of Rueck Parkway as part of the subdivision on, over, along and across the adjoining property of the Pfeffers.

aforesaid. The parties acknowledge, stipulate and agree that the granting of the roadway, drainage and utility easements aforesaid contemplates that owners and/or developers of the Annexation Tracts and of land adjoining the Annexation Tracts and other property in the vicinity of the Annexation Tracts will have available the necessary right-of-way to make said infrastructure improvements in the future in accordance with CITY Ordinances Numbered 1064 and 1329.

The parties acknowledge that the CITY will need fifty (50) foot of right-of-way for "CC" Road and for the roadway, drainage and utility uses and purposes herein contemplated and the CITY will be required to get the remaining twenty-five (25) foot of right-of-way from the owners of record of the property located west of the Annexation Tracts, to wit: Hilda L. Pfeffer and Joseph G. Pfeffer.

How was a contractual obligation on the part of Brellinger Subdivision to improve the west half of Rueck Road satisfied by an agreement that guaranteed the completion of Rueck Parkway?

October 16, 2002 Letter from Adams – Brellinger Preliminary Plat & Rueck Road

We have a preliminary plat submittal for the Brellinger Subdivision from Dennis Brand the approval of which will require the establishment of the final alignment and a commitment for the reconstruction of Rueck Road in the Briar Lake Estates Subdivision situated between Quarry Road and the Brellinger Subdivision. Our regional plan is for the City to acquire a 65 foot wide right-of-way for Rueck Road along the west boundary of the

proposed Briar Lake Estates Subdivision to lead into and connect with a 65 foot wide right-of-way extension thereof (Rueck Parkway) to run diagonally (southwest to northeast) through and across the Brellinger Subdivision (to be constructed by Dennis Brand) to connect into the Louis Mund private road at the northwest corner of the Brellinger Subdivision. At that location the road would be extended and reconstructed by H. J. Friedich & Sons, Inc. (Paul Friedich) to connect to and utilize the street network to be developed and constructed in the Columbia Golf Course development. As a result of the regional plan, traffic flow into and out of the area would be by intersections with Mule Road, Old State Route 3, AA Road and Rueck Road. Additionally, the developer of the Brellinger Subdivision is willing to dedicate to the City a 32.5 foot wide right-of-way along the south and east boundaries of that subdivision for road right-of-way, utilities and drainage and the developer of the Briar Lake Estates Subdivision is willing to dedicate to the City a 32.5 foot right-of-way along the north boundary of that subdivision for road right-of-way, utilities and drainage for future widening and reconstruction of the currently existing Rueck Road (where the 90° curves now exist) in order to keep that road open for use of adjoining owners and for future development of areas located west and north (that section of roadway to be reconstructed and improved in the future when those areas develop by whoever develops those acres).

Staff interprets this as meaning Rueck Parkway is an extension of Rueck Road through and across Brellinger subdivision.

November 4, 2002 City Council Minutes – Brellinger Preliminary Plat Approval

MOTION:

It was moved by Alderman Ebersohl, and seconded by Alderman W. Eckert, to conditionally approve the preliminary plat for the "Brellinger Subdivision", the conditions being:

(1) The owner/subdivider of the Brellinger Subdivision and Joseph and Hilda Pfeffer making and entering into a cooperation agreement with the City and any other necessary parties to provide for the reconstruction of Rueck Road on the Quarry Road Development, Inc. property; the construction and installation thereof (Rueck Parkway) on the Brellinger Subdivision property and adjoining land of Joseph and Hilda Pfeffer on terms acceptable to the City prior to final plat approval;

(2) Necessary parties making and entering into any required recoupment agreement(s) with regard to the reconstruction, realignment and extension of Rueck Road in and for the subject territory prior to final plat approval.

(3) The subdivider making temporary improvements to the currently existing oil and chip pavement of Rueck Road on and adjoining the Quarry Road Development property (and adjoining Payne property) to create a minimum twenty-two (22) foot wide oil and chip surfaced travel way - pending reconstruction of Rueck Road at the subject location which complies with City standards - (which temporary Rueck Road improvement costs may be subject to

recoupment with regard to recoupment agreement(s) referred to in the preceding paragraph).

(4) Approval of the October 14, 2002 preliminary plat submittal for the Brellinger Subdivision by the City Attorney as being in compliance with the City's Subdivision Code, Zoning Ordinance, other applicable City Codes and Ordinances, and the Illinois Plat Act or for such changes to be made thereto as the City Attorney shall determine is necessary in order to bring the preliminary plat into compliance with said ordinances and State statute.

(5) Approval of the October 14, 2002 preliminary plat submittal for the Brellinger Subdivision by the City Engineering Consultant, Kenneth Vaughn, as being in compliance with the City's Subdivision Code, Zoning Ordinance, other applicable City Codes and Ordinances, and the Illinois Plat Act or for such changes to be made thereto as the City Engineering Consultant, Kenneth Vaughn, shall determine is necessary in order to bring the preliminary plat into compliance with said ordinances and State statute.

(6) The final plat for the "Brellinger Subdivision" will configure the right-of-way for Rueck Parkway at the southwest corner of the subdivision to allow room for the extension of Rueck Road into the Brellinger Subdivision based upon what the final alignment of Rueck Road on the Quarry Road Development, Inc. (and Payne property, if applicable) shall be established to be.

Upon Roll Call vote, Aldermen G. Eckert, Conrad, Ebersohl, W. Eckert, Agne, Niemietz, Odenthal, and Unnerstall voted yea. Motion Carried.

Staff interprets these conditions to indicate that in approving the Brellinger subdivision preliminary plat City Council approved Rueck Parkway as an extension of Rueck Road into and through Brellinger subdivision.

April 14, 2003 Adams Draft Amendment to Golf Course Annexation Agreement

ADAMS & HUETSCH ATTORNEYS AT LAW

*TOM D. ADAMS

*JAY M. HUETSCH

OF COUNSEL:

ROBERT W. HAWKINS

LICENSED IN MISSOURI

*LICENSED IN ILLINOIS
AND MISSOURI

321 WEDGEWOOD SQUARE

P.O. BOX 647

COLUMBIA, ILLINOIS 62236

618/281-5185/5186

FAX 618/281-5553

April 14, 2003

PLEASE REPLY TO

MAIN & MILL STREETS

P.O. BOX 132

WATERLOO, ILLINOIS 62298

618/939-6126

SOUTHERN COMMERCIAL BANK BUILDING

5515 SOUTH GRAND AVENUE

ST. LOUIS, MISSOURI 63111

BANK OF HILLSBORO BUILDING

P.O. BOX 7

HILLSBORO, MISSOURI 63050

RECEIVED

APR 14 2003

CITY OF COLUMBIA, IL

Mayor and Aldermen of the Columbia City Council
Columbia City Hall
208 South Rapp Avenue
P. O. Box 467
Columbia, Illinois 62236

(14) IMPROVEMENT OF RUECK ROAD: The Annexation Petitioners or the applicable subdivider/developer of their property, shall within one (1) year (365 days) of the completion of construction of the proposed "Rueck Parkway" (being a proposed extension and realignment of the former Monroe County Road District No. 5 "Rueck Road" in the proposed "Brellinger Subdivision" in the City which is to be constructed by D & A Builders - Dennis Brand, Builder) construct, perform and pay for the following improvements to the portion of the existing "Rueck Road" that adjoins the western boundary of the proposed "Brellinger Subdivision" at the location depicted on the drawing provided by the Annexation Petitioner, which is attached hereto as Exhibit "10", in accordance with the following minimum specifications, to wit:

- (A) Twenty-two (22) foot wide Portland cement concrete pavement, eight (8) inches thick, constructed on compacted base sub-grade;
- (B) Six (6) foot wide bituminous shoulders on each side of pavement; and;
- (C) Five (5) foot wide Portland cement concrete sidewalks, four (4) inches thick, located on each side of realigned and reconstructed Rueck Road, located one (1) foot behind top of back slope of ditch.

The Annexation Petitioners or their subdividers/developers shall pay for all costs in connection with the design engineering, construction engineering, and the cost to construct and install the subject section of realigned and reconstructed Rueck Road.

This is a draft that was never approved. However, the language specifically defines Rueck Parkway as an extension and realignment of Rueck Road. This clearly supports the staff determination.

The "western boundary" is an obvious error, as Rueck Road is located on the eastern boundary of Brellinger subdivision. However, this indicates that the City intended to hold the Golf Course responsible for improving Rueck Road between the Golf Course property and Rueck Parkway.