



## AGENDA ITEM SUMMARY FORM

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**MEETING DATE:** January 25 2022

**PREPARED BY:** Lindsay Koskiniemi, CGFO, CPM, Assistant Director of Development Services

**AGENDA CONTENT:** Discussion and possible action on the revised preliminary plat and variances for the Mulberry Fields subdivision. The subject property is currently undeveloped and is located on the north side of State Highway 35 (West Mulberry) and consists of 13.0044 acres. The proposed subdivision is within the Single Family Residential 6.3 (SF-6.3) zoning district.

**AGENDA ITEM SECTION:** Regular Agenda

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**BUDGETED AMOUNT:** N/A

**FUNDS REQUESTED:** N/A

**FUND:** N/A

### EXECUTIVE SUMMARY:

On November 4, 2021, the Planning and Zoning Commission heard a request to discuss, consider, and act on a recommendation for the Preliminary Plat of the Mulberry Fields Subdivision and variances. Staff recommended denial, as the preliminary plat did not meet the City's sixty-foot road right-of-way requirement among several other comments provided by the City's engineer, HDR. The Planning and Zoning Commissioners unanimously denied a request to recommend approval to the City Council, and at the regular City Council meeting held on November 9, 2021, the City Council unanimously voted to deny approval of the Mulberry Fields preliminary plat and variances.

On December 6, 2021, the City received a revised application for a preliminary plat and variances from the Mulberry Fields team, which was reviewed by HDR. While the revised preliminary plat now shows the roadway meeting the 60-foot right-of-way, changes to the curve radii on the west side of the development reduce the depth of lots to less than the required one-hundred-foot length for the SF-6.3 zoning district. According to Angleton Land Development Code, Section 23-129, requires the proposed curved roadway sections to be designed with a knuckle configuration.

Along with the revised preliminary plat application, an application for variances was received. Modifications to the subdivision design to include knuckled radii may change the variance requests.

Section 23-11.A.1 states: "New lots shall comply with applicable requirements set out in Code of Ordinances Chapter 28 – Zoning." The minimum standards for lots within this project are:

1. Minimum lot area: 6,300 square feet.
2. Minimum lot width: 60 feet.
3. Minimum lot depth: 100 feet.

Minimum lot requirements vary by zoning district and are applied by reference in Section 23-11.A.1. As this requirement is part of Chapter 23 Land Development Code and the variances requested are associated with the requirements applied to a plat and not zoning variances (although the some of the standards applied are found within Chapter 28 Zoning), the variance approval standards of Section 23-103 Land Development Code Variances apply. An example-of a zoning variance would be if a building permit application were submitted and the proposed structure did not meet the required side yard setback, or the proposed structure exceeded the maximum height of the applicable zoning district. Under those examples, any variance request would be directed to the Board of Adjustment (BOA) for action. In the case of these requested variances, direction to the BOA is neither process efficient nor correct as the standards apply to subdivision of the property and the subdivision process of Section 23-103 is applicable and requires the Planning and Zoning Commission to review and make a recommendation and the City Council to consider and decide.

**Lot Depth Variances.** Pursuant to Section 23-103.B Variance Approval Standards: Variances may be granted when:

1. **There are circumstances specific to the property that create an undue hardship that generally do not apply to surrounding properties; such as, but not limited to, its shape, or topography;**

The property is undeveloped and is not entirely regularly shaped. In meeting the minimum street ROW requirement and due to the location of existing access to adjacent streets, a hardship is created in meeting all lot requirements.

2. **Special consideration is necessary to allow an applicant the same right of use enjoyed under the LDC by surrounding properties;**

Given the configuration of the property, the limited adjacent street access, special consideration is necessary to allow the applicant the same right of use enjoyed under the LDC by surrounding properties.

3. **Consideration is unique to the subject property and would not generally set an adverse precedent for other applications;**

Consideration is unique to the subject property and would not generally set an adverse precedent.

4. **The hardship was not created by the applicant; and**

The hardship has not been created by the applicant.

5. **A variance would not be detrimental to any adjacent properties or to public health and safety.**

It is hard to imagine how a variance would be detrimental to any adjacent properties or to public health and safety.

During the Planning and Zoning Commission consideration of this item, it was brought to everyone's attention that an overhead power line easement exists on a portion of the property. Said easement has been located on the proposed preliminary plat. The Planning and Zoning

Commission, by a vote of 5 in favor/1 opposed/1 abstention, recommends approval of the Mulberry Fields Preliminary Plat and the variances subject to the correction of comments provided by the City's engineer prior to the receipt of the final plat application.

**RECOMMENDATION:**

Staff recommends approval of the Mulberry Fields revised preliminary plat subject to the correction of comments provided by the City's engineer prior to the receipt of the final plat application.

**SUGGESTED MOTION:**

I move we recommend approval of the Mulberry Fields revised preliminary plat subject to the correction of comments provided by the City's engineer prior to the receipt of the final plat application.