



## AGENDA ITEM SUMMARY FORM

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**MEETING DATE:** September 27, 2022

**PREPARED BY:** Walter E. Reeves, Jr, AICP, Director of Development Services

**AGENDA CONTENT:** Discussion and possible action on a proposed land plan for 28.203 acres located north of Western Avenue and east of Heritage Oaks Drive.

**AGENDA ITEM SECTION:** Consent Agenda

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**BUDGETED AMOUNT:** N/A **FUNDS REQUESTED:** N/A

**FUND:** N/A

**EXECUTIVE SUMMARY:**

Section 23-104-B. 3 allows any person desiring to subdivide or develop land to submit a concept plan, master plan, or land study to obtain limited vesting rights to proceed with development applications in accordance with the specific conditions of approval of the plan that is approved by the city. To that end, a possible developer of property located north of Western Avenue and east of Heritage Oaks Drive (Attachment 1) has made such a submission.

The proposed land plan (Attachment 2) consists of 49 single family residential lots having typical lot dimensions of 100 feet of width and 130 ft. of depth, a central detention pond and two areas designated as "park areas." The subject property is in the Single Family Residential 7.2 zoning district (Attachment 3) which has minimum lot dimension of 60 feet of width, 100 feet of depth and 7,200 square feet of lot area. The proposed land plan exceeds those minimum requirements and the density is 1.73 dwelling units per acre.

Section 23-11.I requires the following: 1. All subdivisions containing 30 or more lots must have at least two points of 100-year storm compliant public access constructed to ACM standards, that connect to paved public streets. 2. The city council may approve subdivisions that have more than 30 lots, but fewer than 50 lots, with a single entrance to a paved public street provided that such connection to an existing paved public street is designed as a boulevard with a width sufficient on each driving lane for fire truck access, with an unbroken median length of 100 feet, unless left-turn lanes and median breaks designed to ACM standards, are installed at any crossing streets. 3. The city council may approve subdivisions that have more than 50 lots, with a single entrance to a paved street subject to the entrance to the development being designated as a boulevard with a width sufficient on each driving lane for fire truck access, with an unbroken median length of 150 feet, unless left-turn lanes and median breaks, designed to ACM standards, are installed at any crossings, subject to a phasing

plan that stipulates when the second access will be provided and the developer or subdivider posts surety for the second access point. The council may defer plat recordation until adequate access is provided. As the Commission will recall there was a request for preliminary plat approval in June 2021 for a proposed 80 lot subdivision that requested a variance of Section 23-11.I.3. The Commission recommended denial of the requested variance and the preliminary plat.

After the Commission recommendation the developer approached staff by an alternative design for the required boulevard entrance. Staff met with the original developer on June 9, 2021 and discussed the requirements of Section 23-11.I. To meet the boulevard entrance requirement the developer proposed a revised cross-section (Attachment 4) for the existing stub street that is the proposed entrance into the Whispering Pines project. After input from Fire Chief Scott Meyers, EMS Director Lucille Maes, and Police Chief Guadalupe Valdez, the consensus staff direction to the developer in regard to the proposed entrance cross-section was the following: 1. Widen the pavement to 48 feet in width and remove the median due to the property owner to the south taking driveway access to the existing stub street. 2. Post "No Parking" signs along the entrance into the Whispering Pines project. 3. The curbs be rollover curbs.

No proposal was made on the provision of secondary access with the original 80 lot preliminary plat, although several options were discussed. Ultimately, the variance and preliminary plat was denied by City Council.

Pursuant to Section 23-104 D.3. applicants are encouraged as part of the plan submittal contents to "Cite any design deviations that are contemplated. Without such declarations it is assumed that the project will comply with all applicable development requirements." While no design deviations have been cited, the boulevard entrance requirement has been a topic of discussion with the new applicant. Unfortunately, even if a design deviation as proposed by the previous 80 lot development were specifically requested for the boulevard entrance, staff would advise that the Commission not address that deviation. Such a deviation is a variance of the requirement of Section 23-11.I.2 and variances requested as part of a residential replat (which this proposal would be) must comply with the requirements of the Texas Local Government Code (LGC). LGC Section 212.015.(a).(1) requires conformance with LGC Section 212.015 if during the preceding five years, any lot in the preceding plat was limited by an interim or permanent zoning classification to residential use for not more than two residential units per lot. The subject property is in the (SF-7.2) district which limits the number of residential units per lot to one. As a result, conformance with LGC Section 212.015 is required. LGC Section 212.015.(a-1) requires that if a proposed replat described by LGC Section 212.015.(a) requires a variance or exception, a public hearing must be held by the municipal planning commission or governing body of the municipality. LGC Section 212.015.(b) requires notice of the public hearings, as required by LGC Section 212.015.(a-1), be published in the City's official newspaper and sent to all property owners in the original subdivision within 200 feet of the lot(s) being replatted. The process of Section 23-104 does not require public notice. As such, no deviation of the boulevard standard detailed in Section 23-11.I.2 can be recommended by the Commission as no public hearing is being held on the deviation. At best, the Commission can recommend the proposed lot layout. No action was taken on this item at the August 16, 2022 special meeting of the Commission due to lack of a quorum.

**Action taken by the planning and zoning commission.** The commission voted to deny approval of the application due to the failure of the applicant to design the entrance as required in the Angleton, Land Development Code.

**Recommendation.** The planning and zoning commission forwarded this application to the city council for consideration and appropriate action.