



AGENDA MEMORANDUM

Planning Commission Meeting of August 22, 2018

DATE: August 17, 2018

TO: Nina Nixon-Méndez, Director of Development Services

FROM: Greg Collins, Senior City Planner, Development Services
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Planning Commission Review of Technical Review Committee Denial of Amending Plat Bridgepointe Landing, Block 1, Lot 5R and 6R

BACKGROUND:

J. Schwarz & Associates, Inc., on behalf of property owner, May Dev, LP (managing partner, Mr. W. Alex May), submitted a plat application on May 22, 2018 for 15.458 acres +/- of property, located south of State Highway 358 (South Padre Island Drive) and east of Lexington Drive, located behind, south of, Roy's Bait and Tackle Outfitters, addressed as 7901 S. Padre Island Drive.

In this plat application, the landowner seeks to adjust lot lines to, in effect, clip approximately two acres off the northeast corner of Lot 6 and combine that two acres with an adjacent Lot 5. The result is the creation of two new lots, Lot "6R" and Lot "5R".

The applicant contends that this is an amending plat, under the Unified Development Code (UDC) and Texas Local Government Code, because it is simply relocating one or more lot lines between one or more adjacent lots, and it is not increasing the number of lots. See Texas Local Government Code Section 212.016(a)(9). Applicant asserts that no improvements are required, and that this plat should be approved administratively by City Staff under Unified Development Code (UDC) Section 3.10.1 as an amending plat.

STAFF ANALYSIS:

Staff contends that this plat is a replat, not an amending plat, under Texas Local Government Code Section 212.016(a)(11) ("Amending plat"), because the plat "require[s] the creation of a new street" because of the City's current Urban Transportation Plan (UTP), and because the plat "make[s] necessary the extension of municipal facilities." See Texas Local Government Code. This requirement comes from the adoption of Williams Drive alignment onto Lot 6, by Ordinance dated February 18, 2014.

The prior Final Plat of Lot 6 was approved by Planning Commission on May 12, 2010 and was recorded on May 22, 2014. The recordation caused the Preliminary Plat of Lot 6 (which had not

shown Williams Drive) to expire. The new plat application, received in 2018, is therefore subject to platting requirements, including the UTP and the Williams Drive alignment as configured on Lot 6R today.

The required street and facilities include:

- Williams Drive, shown on the Urban Transportation Plan (UTP), on this property, as a C-3 collector (75-foot right-of-way, 50-foot pavement width), running along the southern edge of Lot 6. This street was placed on the UTP by Ordinance 030091, dated February 18, 2014. The street is planned, but not yet built, from Rodd Field Road to Ennis Joslin Road. Forty (40) feet of right-of-way already exists along this alignment because this section line is indicated as a road in the original Flour Bluff and Encinal Farm and Garden Tracts plat of 1895. Staff is requesting additional dedication of land (35 feet) to have the full 75 feet of right-of-way, and construction of the street.
- Extension of water lines, and fire hydrants, along Williams Drive.
- Additional dedication of drainage right-of-way that delineates the natural watercourse in the south portion of the property.
- Installation of a fire hydrant along Lexington Drive is also required.

The current UTP shows Williams Drive alignment on the property and this was placed by Ordinance 030091, passed on February 18, 2014. The Final Plat for Lot 6 was recorded on May 22, 2014, *after* the placement of the street on the property.

Williams Drive was previously shown on this property as early as 1996 and 2004, in prior preliminary plats. Drainage right-of-way was also shown.

It should be noted that on a May 12, 2010 preliminary plat approved by Planning Commission, Williams Drive was no longer shown on the property. A final plat was approved by Planning Commission that same day.

That final plat then was extended six times over a four-year period. Then, Williams Drive alignment was moved back onto the property by the aforementioned February 2014 Ordinance 030091. The Final Plat for Lot 6 was recorded thereafter, on May 22, 2014, without construction or dedication of right-of-way of Williams Drive. The preliminary plat for Lot 6 expired at that same time, upon recordation of final plat in May 2014.

A timeline of these events is shown below. A more detailed timeline is in an appendix to this memo.

Date	Event
1996	Preliminary Plats approved by Planning Commission in March and December show --Williams Drive alignment shown on the property, and street sections. --104-foot drainage right-of-way
2004	Preliminary Plat approved by Planning Commission shows --Williams Drive shown on the property, and street sections, and --180 to 200-foot drainage right-of-way, and a bridge over drainage

	<i>easement.</i> Applicant's engineer's letter dated 6/28/2004 states they are complying with Williams Drive alignment on southern end of property, "under protest," asserting a taking. Their letter also states they are willing to move forward because the (southern) portion <i>will not be immediately developed, that the preliminary plat will likely expire, and no dedication (of Williams Drive) will be recorded.</i> City approval letter dated 7/2/6/2004 includes mention of the "extension of Williams Drive east of Lexington Road."
05/12/2010	<i>Preliminary Plat and Final Plat Lot 6, Block 1</i> approved by Planning Commission. --<u>Williams Drive is no longer shown</u> on the Preliminary Plat. --<u>50-foot drainage right-of-way is shown.</u>
2010 - 2013	Six Time Extensions of Final Plat and Two Extensions of the Preliminary Plat.
02/18/2014	<i>Williams Drive alignment is moved back onto the subject property</i> by UTP amendment and Ordinance 030091.
05/22/2014	<i>Final Plat Lot 6, Block 1, is recorded.</i> <i>Preliminary Plat of Lot 6, Block 1 expired.</i>
05/22/2018	Applicant submits plat application for "replat" of Lots 5 and 6, to "adjust a common lot line." The applicant changes the submittal to an "amending" plat. Williams Drive dedication and construction is required per UTP and Ordinance 030091 (02/18/2014).

Staff argues that, because Williams Drive was placed on the property by UTP and Ordinance, in 2014, prior to the current application in 2018, the applicant is required to dedicate the right-of-way for the street and the drainage, and to construct the street.

Staff also asserts that this proposed amending plat does not satisfy the review criteria for amending plats in UDC Section 3.10.3.B.1 (emphasis added):

"The plat is consistent with the Comprehensive Plan, implementation plan, applicable Utility Master Plans and any other adopted plans as they relate to:

1. The City's current and **future streets**, sidewalks, alleys, public open space and other public improvements; and
2. The extension of the City limits or the **extension, improvement or widening of its roads**, taking into account access to and **extension of water, storm water** and wastewater mains and the instrumentalities of public utilities."

STAFF RECOMMENDATION:

Staff recommends denial of the applicant's amending plat, because the plat "**require[s]** the creation of a new street" and "make[s] necessary the extension of municipal facilities" under Texas Local Government Code 212.016(a)(11). The plat also does not satisfy the review criteria for amending plats in UDC 3.10.3.B.1, as it is not consistent with the City's plans regarding "**future streets**" and "**extension**" of improvements. The UTP and Ordinance placed Williams Drive on the subject property on February 18, 2014. The prior preliminary plat for Lot 6, previously omitting Williams Drive from the property, expired on May 22, 2014. The new application of May 2018 is

after the adoption of the UTP and Ordinance in February 2014, and therefore must abide by today's platting requirements, including the current alignment of Williams Drive.

LIST OF SUPPORTING DOCUMENTS:

Exhibit A – Amending Plat of Bridgepointe Landing, Block 1, Lot 5R and 6R
Exhibit B – Comments of Technical Review Committee, with Applicant's Responses
Exhibit C – Preliminary Plat for Bridgepointe Landing Lot 6, Block 1 (May 12, 2010)
Exhibit D – Final Plat for Bridgepointe Landing Lot 6, Block 1 (May 12, 2010, recorded May 22, 2014)
Exhibit E – Preliminary Plat for Bridgepointe Landing Lots 1, 4, and 5, Block 1 (June 30, 2004).
Exhibit F – Final Plat for Bridgepointe Landing Lots 4 and 5 (Approved November 17, 2004, recorded April 1, 2005)
PowerPoint Presentation

APPENDIX

Date	Event	Williams Drive Location/Status
03/06/1996	Preliminary Plan approved by Planning Commission – Bridgepointe Landing, consisting of Lot 1 and Lot 2, Block 1, and showing Williams Drive Typical Street Section. Approved by Planning Commission	<u>Williams Drive is shown</u> along the southern portion of the property then known as Lot 2, Block 1. <u>104-foot drainage right-of-way</u> also shown.
03/06/1996	Final Plat approved by Planning Commission – Bridgepointe Landing, Lot 1, Block 1.	
12/11/1996	Preliminary Plan approved by Planning Commission, consisting of Lot 1, Block 1 (formerly Lot 1 and Lot 2), and creating a new Lot 2 and Lot 3, Block 1 along SPID.	<u>Williams Drive is shown</u> along the southern portion of the property then known as Lot 2, Block 1. <u>104-foot drainage right-of-way</u> also shown.
12/11/1996	Final Plat of Lot 2 and Lot 3, Block 1 approved by Planning Commission, recorded on 12/12/1996.	
06/30/2004	Preliminary Plat of Lots 1, 2, & 5, Block 1 approved by Planning Commission	<u>Williams Drive is shown</u> on the Preliminary Plat, with bridge over drainage easement. <u>180 to 200-foot drainage right-of-way</u> also shown. Applicant's engineer's letter dated 6/28/2004 states they are submitting the preliminary plat showing Williams Drive alignment and drainage easement on southern end of property, "under protest," asserting a taking. Their letter also states they are willing to move forward because the (southern) portion will not be immediately developed, that the preliminary plat will likely expire, and no dedication (of Williams Drive and drainage easement) will be recorded. Approval letter dated 7/2/6/2004 includes mention of the "extension of Williams Drive east

		of Lexington Road.”
11/17/2004	Final Plat of Lot 4 and 5, Block 1, approved by Planning Commission.	
04/01/2005.	Final Plat of Lot 4 and 5, Block 1, recorded.	
05/12/2010	Preliminary Plat and Final Plat Lot 6, Block 1 approved by Planning Commission	<u>Williams Drive is no longer shown</u> on the Preliminary Plat.
12/08/2010	1st Time Extension for Lot 6, Block 1 (Final Plat)	
05/25/2011	Preliminary Plat Extended 12 months	
06/22/2011	2nd Time Extension for Lot 6, Block 1 (Final Plat)	
12/07/2011	3rd Time Extension for Lot 6, Block 1 (Final Plat)	
05/23/2012	Preliminary Plat Extended 12 months 4th Time Extension for Lot 6, Block 1 (Final Plat)	
12/05/2012	5th Time Extension Requested for Lot 6, Block 1 (Final Plat)	
06/19/2013	Preliminary Plat Extended another 12 months 6th Time Extension for Lot 6, Block 1	
12/13/2013	City staff emailed applicant's engineer informing him of fire hydrant installation requirement.	
02/18/2014	Ordinance 030091	<u>Williams Drive alignment is moved back onto the subject property.</u>
05/08/2014	Fire hydrant quote paid by applicant.	
05/22/2014	--Final Plat Lot 6, Block 1, Recorded --Preliminary Plat Lot 6, Block 1, Expired	
05/22/2018	Applicant submits plat application for “replat” of Lots 5 and 6, to “adjust a common lot line.” The applicant changes the submittal to an “amending” plat.	