



## AGENDA MEMORANDUM

Planning Commission Meeting of October 17, 2018

**DATE:** October 12, 2018

**TO:** Nina Nixon-Méndez, Director of Development Services

**FROM:** Greg Collins, Senior City Planner, Development Services  
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### **Puerto Los Caballeros Tract, Block 1, Lot 1**

Request for a Waiver of the Wastewater Infrastructure Construction Requirement in Section 8.2.7.A of the Unified Development Code (UDC), an Exemption from Wastewater Lot/Acreage Fees in Accordance with Section 8.5.2.G of the UDC, and a Waiver from Sidewalk Construction Requirement in Section 8.2.2

#### **BACKGROUND:**

Urban Engineering, on behalf of landowner/developer, submitted a request for a waiver of the plat requirement to construct wastewater infrastructure under Section 8.2.7.A of the Unified Development Code (UDC), and an exemption from the Wastewater Lot/Acreage Fees in accordance with Section 8.5.2.G of the UDC.

The subject plat, known as Puerto Los Caballeros Tract, Block 1, Lot 1, is 39.75 acres, and is located at the southwest corner of Northwest Boulevard (FM 624) and County Road 73 (CR 73). The land is within the city limits and is zoned General Commercial 2 ("CG-2").

#### **STAFF ANALYSIS:**

##### **1. Waiver of Construction Requirement for Wastewater**

Section 8.2.7.A of the UDC requires that every lot within a proposed subdivision shall be provided with access to an approved wastewater collection and treatment system of sufficient capacity as determined by adopted City wastewater standards and master plans.

However, when any subdivision is planned that is "not reasonably accessible to a public wastewater facility of sufficient capacity as determined by adopted City wastewater standards," such subdivision is eligible for a waiver from this requirement to construct or extend access to such a wastewater system. In such case, the subdivision shall have either (a) an individual aerobic (septic) system, (b) an individual wastewater treatment plant serving the subdivision, or, (c) interim service by construction of lift station(s) and force main(s). (UDC Section 8.2.7.B.1.a-c.)

"Reasonably accessible" means (i) wastewater facilities currently exist in the designated service area, including trunk mains and lift stations, and such facilities can be extended to serve the

subdivision; and (ii) collection lines of adequate capacity to service the proposed development are within 1,000 feet of the subdivision and can be extended. (UDC Section 8.2.7.B.1.d.(i)-(ii) emphasis added).

Currently, there is no wastewater service / line connection, at sufficient depth, within 1,000 feet of the proposed subdivision.

If the City were to require wastewater improvement installation, the Wastewater Master Plan calls for:

- installation of a new 10-inch gravity line, widening to 12-inch diameter as it runs north from the property, to a proposed new Riverview Lift Station, for a distance of over one (1) mile;
- construction of the proposed Riverview Lift Station;
- installation of a new force main from that lift station, running east-southeast, a distance of over three (3) miles, connecting to an existing gravity line along Leopard Street just east of Interstate 69 near the interchange with Interstate 37.

From there, the existing gravity line would then flow to the existing Sharpsburg Lift Station north of Interstate 37, and from there, the existing Sharpsburg Force Main would take the sewage to the Allison Wastewater Treatment Plant.

An alternative to the Wastewater Master Plan improvements described above would be to connect to the nearest sewer manhole directly to the east, along Northwest Boulevard (FM 624). However, that existing manhole is around 2,600 feet (around 0.5 mile) away. Also, according to GIS mapping, that existing manhole has a depth of about 11.3 feet, that is not likely to be a sufficient depth to allow sewage to flow by gravity from the entire extent of the property to that manhole. Also, the new manhole installed at the property for the new gravity line likely would not meet the City's required minimum of four (4) feet of depth.

Instead of these wastewater improvements, the applicant proposes an individual aerobic (septic) system for the lot, per UDC Section 8.2.7.B.1.a.

### **1.1 Factors for Granting a Plat Waiver (UDC Section 3.8.3.D)**

Section 3.8.3.D of the UDC lists the factors to be considered in whether to grant a waiver from a platting requirement. The factors are:

1. The granting of the waiver shall not be detrimental to the public health, safety or general welfare, or be injurious to other property in the area, or to the City in administering this Unified Code;
2. The conditions that create the need for the waiver shall not generally apply to other property in the vicinity;
3. Application of a provision of this Unified Development Code will render subdivision of land unfeasible; or
4. The granting of the waiver would not substantially conflict with the

Comprehensive Plan and the purposes of this Unified Development Code.

**STAFF FINDINGS:**

Staff finds that the subdivision planned is “not reasonably accessible” to a public wastewater facility of sufficient capacity. Staff finds that the factors for granting a plat waiver Regarding the factors for granting a plat waiver under Section 3.8.3.D, Staff finds, first, that the granting of the waiver would not be detrimental to public health, safety and welfare, or injurious to property or to the City. On-site sewage facilities in conformance with City-County Health Department will be proposed with the development on the property. Second, the conditions creating the need for this waiver, that is, the topography of the land and the depth and distance of the nearest wastewater connection, does not apply generally to other property in the vicinity. Third, applying the requirement to construct a wastewater trunk line, force main line, and lift station, would render the subdivision of land unfeasible, based on the evident cost of installation of master plan wastewater infrastructure over such a distance. Fourth, the granting of the waiver would not substantially conflict with the Comprehensive Plan and the purposes of the UDC.

**2. Exemption from Wastewater Lot/Acreage Fees**

Section 8.5.2.G states that City Council, with the advice of Planning Commission, may exempt a tract of land from the wastewater lot/acreage fees, provided the area is not likely to be served with wastewater services within the next 15 years. The potential Wastewater Lot/Acreage Fees are approximately **\$62,447.25**, based on the rate of \$1,571 per acre, multiplied by 39.75 acres. On-site sewage facilities (septic systems), in conformance with City-County Health Department will be proposed with the development on the property.

For the Planning Commission to recommend to City Council approval of the exemption of the wastewater lot/acreage fee, the Commission must find that the subject property is not likely to be served with wastewater services within the next 15 years.

Staff finds there are no plans or capital improvement projects at this time for the City to provide wastewater services to this area within the next 15 years.

**STAFF RECOMMENDATION:**

Staff finds that the request meets the requirements for waiver of wastewater infrastructure construction per Section 8.2.7.A, and an exemption from the Wastewater Lot/Acreage fees per Section 8.5.2.G of the UDC.

Staff recommends a condition for approval, that the applicant enter into a Sanitary Sewer Connection Agreement.

**3. Waiver of Sidewalk Construction Requirement**

Applicant requests a waiver from the sidewalk construction requirement along Northwest Boulevard (FM 624) and along CR 73. UDC Section 8.1.4 and 8.2.2.A require construction of sidewalks as part of the platting process. UDC goes on to state, under Section 8.2.2.B, B.1-B.4., that a waiver *may* be granted, in accordance with the waiver procedure in Section 3.8.3.D., but only if certain conditions exist:

1. Sidewalks shall not be required along each side of a street right-of-way where such

street is a permanent dead-end street and where there is pedestrian access from the permanent dead-end street to a paved hike and bike trail. In such instance, a sidewalk only shall be required on one side of the street right-of-way.

2. Sidewalks shall not be required along street rights-of-way where each lot fronting on such street has direct access from the side or rear to a paved hike and bike trail.
3. Sidewalks shall not be required for residential subdivisions in the Farm-Rural and Residential Estate zoning districts.
4. Sidewalks adjacent to private streets may be allowed to be placed on only one side of the street if the sidewalk width is 6 feet or greater and approved by the Assistant City Manager of Development Services.

None of the enumerated conditions in UDC 8.2.2.B.1-4 for a sidewalk waiver exist on this subject property.

Section 3.8.3.D of the UDC states that the need for the waiver shall be demonstrated to the Planning Commission's satisfaction. The waiver may be approved, approved with conditions, or denied, after consideration of the following factors:

1. The granting of the waiver shall not be detrimental to the public health, safety or general welfare, or be injurious to other property in the area, or to the City in administering this Unified Code;
2. The conditions that create the need for the waiver shall not generally apply to other property in the vicinity;
3. Application of a provision of this Unified Development Code will render subdivision of land unfeasible; or
4. The granting of the waiver would not substantially conflict with the Comprehensive Plan and the purposes of this Unified Development Code.

**STAFF FINDINGS:**

The conditions of UDC 8.2.2.B are not met. However, waivers shall also be evaluated under the factors in UDC 3.8.3.D. Staff finds that there is no existing sidewalk network to connect to along either Northwest Boulevard or CR 73. There are no transit stops along either road. Also, the area is beyond the current extent of the City's ADA Master Plan.

**STAFF RECOMMENDATION / ASSESSMENT:**

Staff recommends the following:

- 1) Approval of the waiver from the wastewater construction requirement;
- 2) Conditional approval of the request for exemption from the wastewater lot/acreage fee, on the condition that the landowner enter into a Sanitary Sewer Connection Agreement with the City;
- 3) Approval of the waiver from the sidewalk construction requirement.

**LIST OF SUPPORTING DOCUMENTS:**

Exhibit A – Final Plat

Exhibit B – Applicant's Request for Wastewater Waiver w/ Exhibits

Exhibit C – Applicant's Request for Sidewalk Waiver

PowerPoint Presentation