



## AGENDA MEMORANDUM

Planning Commission Meeting of January 23, 2019

**DATE:** January 14, 2019

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

**FROM:** Greg Collins, Senior City Planner, Development Services  
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**River Edge Village – Phase One, Final Plat**  
Request for a Waiver of the Wastewater Infrastructure Construction Requirement in  
Section 8.2.7.A of the Unified Development Code (UDC), and  
an Exemption from Wastewater Lot/Acreage Fees  
in Accordance with Section 8.5.2.G of the UDC

### **BACKGROUND:**

J. Perales Civil Engineering and Planning Services, on behalf of Saratoga Oaks Apartments, LLC, property owner, 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 property, known as River Edge Village – Phase One, Final Plat (47.00 acres +/-), is located on the north side of Farm-to-Market Road 43 (FM 43), between County Road 49 and FM 763. The land is outside city limits and is not zoned. The land is within the City's extra-territorial jurisdiction (ETJ) and thus within the City's platting authority. The owner is proposing to develop a 60-lot single-family residential subdivision (with two additional lots, one for a private street and one for a private stormwater detention pond). The plat was approved by Planning Commission on April 4, 2018. Public improvement plans were approved on March 23, 2018. Construction Inspections Department recommended acceptance of public improvements on January 9, 2019.

### **STAFF ANALYSIS:**

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

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, this area is not in a designated area in the City’s wastewater master plan, and no wastewater facilities currently exist in this area. The site is on the southwest side of Oso Creek. Furthermore, there are no collection lines within a “reasonably accessible” distance from the subject property.

The closest existing city wastewater system manhole is approximately 3.8 miles away, on the north side of Oso Creek, along S.H. 286. It is not on the wastewater master plan. The second closest existing city wastewater system manhole is approximately 4.4 miles away, on the northeast side of Oso Creek, on Aaron Drive, between Aaron Estates and Penn Place subdivisions.

The nearest master planned wastewater connection does not currently exist. It is a 15-inch gravity main planned to run east-west, just south of the City Limits, and crossing County Road 33. When built, the closest connection point for the subdivision would be at County Road 33, and it would be approximately 1.4 miles away from the subdivision. This new 15-inch line would flow by gravity east, then north, to a master planned lift station, that would pump wastewater across Oso Creek. The new lift station area designated by this master plan does not extend far enough west to include the area where River Edge Village Phase One is located. Connection to the 15-inch line would require an amendment to this master plan.

The applicant proposes individual aerobic (septic) systems, for this 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 on Waiver from Construction:**

Staff finds that this plat is not in an area served by master planned facilities and is not on the wastewater master plan. It is over four miles (well over 1,000 feet) from the nearest collection lines of sufficient capacity. The subdivision planned is "not reasonably accessible to a public wastewater facility of sufficient capacity as determined by adopted City wastewater standards and master plans.

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 distance and depth of the nearest wastewater connection, does not apply generally to other property. Third, applying the requirement to construct a wastewater trunk line extension and manholes would render the subdivision of land unfeasible. 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 **\$73,837** based on the rate of \$1,571 per acre, multiplied by 47.00 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 approval of the wastewater exemption of the wastewater lot/acreage fee to City Council, the Commission must find that the subject property is not likely to be served with wastewater services within the next 15 years.

**Staff Findings on Exemption from Wastewater Lot/Acreage Fee.** Staff finds there are no plans or capital improvement projects currently 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 conditional approval of the exemption from the Wastewater Lot/Acreage fee, conditioned on the landowner entering into a Sanitary Sewer Connection Agreement.

These assessments and recommendations are made in coordination with the Utilities Department.

**LIST OF SUPPORTING DOCUMENTS:**

Exhibit A – River Edge Village-Phase One, Final Plat

Exhibit B – Waiver and Wastewater Lot/Acreage Fee Exemption Letter Request

Exhibit C – Applicant's Exhibit

PowerPoint Presentation- WW Waiver & Exemption River Edge Village