

CITY COUNCIL MEETING OF 10-07-14 AGENDA ITEM #14-199MRP

AGENDA ITEM

TO: City Council

THROUGH: Michael Quint, Director of Planning

FROM: Matt Robinson, AICP, Planning Manager

SUBJECT: Conduct a Public Hearing to Consider/Discuss/Act on the Request for Approval of a Minor Replat for Lots 5A-8A, Block A, of the Lustig Addition, Being Less than 1 Acre, Located Approximately 270 Feet North of Walker Street and on the East of Tennessee Street

APPROVAL PROCESS: The City Council is the final approval authority for the proposed minor replat.

STAFF RECOMMENDATION: Staff recommends approval of the proposed minor replat with the following conditions:

1. The applicant satisfy the conditions as shown on the Standard Conditions for Minor Replat Approval Checklist, attached.
2. The applicant receive approval of a variance to Section 142-105 of the Subdivision Ordinance allowing the use of a private water and sewer line, and associated access and maintenance easement, to serve individual dwelling units.

Prior to filing the plat for record:

3. The applicant revise the plat to add a private water and sewer easement on each lot.
4. The applicant revise the plat to add owner information and owner's certification for all property owners.
5. The applicant revise the plat to modify the title block to correct the notation of lots.
6. The applicant revise the plat to modify the owner's certification to reflect the plat as a minor replat.

APPLICATION SUBMITTAL DATE: July 28, 2014 (Original Application)
August 11, 2014 (Revised Submittal)

ITEM SUMMARY: The applicant is proposing to subdivide two lots, which are less than one acre of land, into four lots, located approximately 270 feet north of Walker Street and on the east side of Tennessee Street.

The subject property is currently platted as two lots and has four existing dwelling units on it. The applicant is proposing to subdivide the lots into four lots, each with one dwelling unit, in order to sell the buildings as townhomes. To achieve this, the applicant is required to provide each lot with access to public utilities, or gain approval by City Council via a variance to the Subdivision Ordinance to not provide access to public utilities. The applicant is proposing to utilize private water and sanitary sewer lines within a private water and sewer easement, in order to serve all lots with water and sewer service.

Minor replats can typically be approved by the Planning & Zoning Commission; however, the plat is being considered by the City Council instead because the applicant has requested a variance to a requirement of the Subdivision Ordinance. Per the Subdivision Ordinance, only the City Council can grant a variance.

MISCELLANEOUS: The applicant has provided a plat that does not identify all property owner's, and does not have a certificate of ownership and dedication for each property owner. Additionally, the title block references lots that are not part of the minor replat. As required by the Subdivision Ordinance, all property owner's must be identified on the plat and have a certification that is signed and acknowledged before a notary public. Prior to the filing of the plat for record, staff recommends that all property owners be identified on the plat, a certificate of ownership and dedication be provided for each owner and that the applicant revise the title block to only include the lots that are being subdivided.

PLATTING STATUS: The subject property is currently platted as Lots 3 and 4, Block A, of the Lustig Addition. In order to subdivide the subject property as proposed by the applicant, a variance to the requirements of the Subdivision Ordinance will be needed in order to waive the requirement to provide a public water line and sanitary sewer line to the two newly created lots. This is detailed further in the "Public Improvement" section of this report.

The City Council has the authority to grant variances as outlined in the Subdivision Ordinance such as, when there are special circumstances or conditions affecting the property in question, enforcement would deprive the applicant of a substantial property right, or that the variance, if granted, will not be detrimental to the public welfare. Pecuniary interests standing alone shall not be justification for granting a variance.

SURROUNDING ZONING AND LAND USES:

Subject Property: "MTC" – McKinney Town Center – Downtown Edge Ordinance No. 13-04-044 (Office, Retail, Commercial and Residential Uses)

North	“MTC” – McKinney Town Center – Downtown Edge Ordinance No. 13-04-044 (Office, Retail, Commercial and Residential Uses)	Undeveloped Land
South	“MTC” – McKinney Town Center – Downtown Edge Ordinance No. 13-04-044 (Office, Retail, Commercial and Residential Uses)	Undeveloped Land
East	“MTC” – McKinney Town Center – Downtown Edge Ordinance No. 13-04-044 (Office, Retail, Commercial and Residential Uses)	Undeveloped Land
West	“MTC” – McKinney Town Center – Downtown Edge Ordinance No. 13-04-044 (Office, Retail, Commercial and Residential Uses)	Ameritex Roofing Company, Single Family Residence

ACCESS/CIRCULATION:

Adjacent Streets: Tennessee Street, 57’ Right-of-Way, Collector

Discussion: All proposed lots have frontage onto Tennessee Street and take access via a shared access drive.

TREE PRESERVATION ORDINANCE: The applicant will be responsible for complying with the Tree Preservation Ordinance, and for submittal of a tree survey or tree preservation plan, as determined by the City Arborist. The applicant will be responsible for applying for all necessary permits for any tree removal that is to occur on site.

PUBLIC IMPROVEMENTS:

Sidewalks: Existing along Tennessee Street

Hike and Bike Trails: Not Required

Road Improvements: All road improvements necessary for this development, and as determined by the City Engineer

Utilities: All utilities necessary for this development, and as determined by the City Engineer

Discussion: Under the requirements of the Subdivision Ordinance, the applicant will be required to construct all necessary public improvements prior to filing the associated plat, unless the requested variances are approved by the City Council.

Section 142-105 of the Subdivision Ordinance requires that water and sanitary sewer facilities shall be provided within a public easement or right-of-way to adequately service the subdivision. The applicant is requesting a variance from the requirement of extending an 8" water and sanitary sewer line to the proposed lots.

During and subsequent to the construction and sale of the existing dwelling units, there was some confusion regarding what type of residential dwelling unit was required to strictly adhere to different specific requirements of the City. Because of this confusion, water and sewer lines that meet the plumbing code requirements for private utility systems were constructed where public utility lines meeting the requirements of the Subdivision Ordinance are required. Nonetheless, the units were eventually sold to homeowners only to find out after the fact that these utility connections do not satisfy the strict requirements of the Subdivision Ordinance. In an effort to rectify this issue with as little impact to the street and the current homeowners, the applicant is requesting a variance to the Subdivision Ordinance which will allow the existing utility lines to remain within a private access and maintenance easement rather than being removed and replaced with 8" lines which meet the requirements of the Subdivision Ordinance. More specifically, the applicant is proposing to provide a 20' wide private water and sanitary sewer line easement on the proposed lots, to ensure that the proposed lots have the necessary access to maintain said lines from the public infrastructure located within the Tennessee Street right-of-way. The City Engineer has reviewed the request and does not object to the variance request to waive the requirement of installing a new public sanitary sewer line and to allow the proposed lots to utilize the existing 4" sewer service lateral line. In order to ensure that these easements remain in place indefinitely, the applicant will be required to file an irrevocable private water and sewer line easement and maintenance agreement on the proposed lots, subject to the review and approval of the City Attorney, prior to the filing of the minor replat.

DRAINAGE: The applicant will be responsible for all drainage associated with the subject property, and for compliance with the Storm Water Ordinance. Grading and drainage plans are subject to review and approval by the City Engineer, prior to issuance of a building permit.

FEES:

Roadway Impact Fees: Not Applicable (fees already collected)

Utility Impact Fees: Not Applicable (fees already collected)

Median Landscape Fees: Not Applicable

Park Land Dedication Fees: Not Applicable

Pro-Rata:

Not Applicable

CONFORMANCE TO THE MASTER THOROUGHFARE PLAN (MTP): The proposed request does not conflict with the Master Thoroughfare Plan.

OPPOSITION TO OR SUPPORT OF REQUEST: Staff has received no comments in support of or opposition to this request.

ATTACHMENTS:

- Standard Conditions for Minor Replat Approval Checklist
- Location Map and Aerial Exhibit
- Letter of Intent
- Proposed Minor Replat
- PowerPoint Presentation