

**AGENDA ITEM**

**TO:** City Council

**THROUGH:** Michael Quint, Director of Planning  
Brandon Opiela, Planning Manager

**FROM:** Steven Duong, Planner I

**SUBJECT:** Consider/Discuss/Act on the Request by Pogue Engineering & Development Company, Inc., on Behalf of Mackuehn Partners, L.L.C., for Approval of a Preliminary-Final Plat for Lots 1-3, Block A, of the Mackuehn Addition, Being Fewer than 16 Acres, Located on the West Side of C.R. 202 and Approximately 1,750 Feet South of F.M. 543

**APPROVAL PROCESS:** The City Council is the final approval authority for the proposed preliminary-final plat.

---

**STAFF RECOMMENDATION:** Staff recommends denial of the proposed preliminary-final plat (and associated variances) due to a lack of conformance with the Subdivision Ordinance.

The following variances have been requested by the applicant:

1. Approval of a variance to Section 142-105 (Improvements) of the Subdivision Ordinance waiving the requirement to construct public streets including the associated street lighting and sidewalks adjacent to the property.
2. Approval of a variance to Section 142-105 (Improvements) of the Subdivision Ordinance waiving the requirement to construct sanitary sewer and water lines to the subject property and extend them to the adjacent property upstream.
3. Approval of a variance to Section 142-105 (Improvements) of the Subdivision Ordinance allowing the use of individual septic systems.
4. Approval of a variance to the Storm Water Management Ordinance waiving the requirement to collect drainage in an underground storm water system.
5. Approval of a variance to Section 142-105 (Improvements) of the Subdivision Ordinance prohibiting lot to lot drainage.

6. Approval of a variance to Section 142-105 (Improvements) of the Subdivision Ordinance requiring water systems to be of a sufficient size to furnish fire protection to all lots.

***However, if the proposed preliminary-final plat is approved with the variances requested by the applicant, the following conditions of approval should also apply:***

1. The applicant satisfy the conditions as shown on the Standard Conditions for Preliminary-Final Plat Approval Checklist, attached.

Prior to filing the plat for record:

2. The applicant revise the plat to show the 100 fully developed floodplain.
3. The applicant revise the plat to show the erosion hazard setback easements.
4. The applicant revise the plat to label all property lines, rights-of-way, and easements within 200' of the subject property.

**APPLICATION SUBMITTAL DATE:** April 14, 2014 (Original Application)  
April 29, 2014 (Revised Submittal)  
May 14, 2014 (Revised Submittal)

**ITEM SUMMARY:** The applicant is proposing to subdivide approximately 15.42 acres of land, located on the west side of County Road 202 and approximately 1,750 feet south of F.M. 543 within the City of McKinney's Extraterritorial Jurisdiction (ETJ). Because the subject property is located within McKinney's ETJ, the regulations of the Zoning Ordinance do not apply to the subject property but the regulations of the Subdivision Ordinance do apply.

Under State Law, before a property can be subdivided in the City of McKinney ETJ, it must be platted and filed for record with the Collin County Clerk, in accordance with the City of McKinney's subdivision regulations. Typically, preliminary-final plats are considered by the Planning and Zoning Commission. This preliminary-final plat has bypassed the Planning and Zoning Commission and is being considered by the City Council instead because the applicant has requested several variances to requirements of the Subdivision Ordinance. Per the Subdivision Ordinance, only the City Council can grant a variance.

The applicant has requested to subdivide the property into three lots (for single-family residential use), with proposed Lot 1 being approximately 8.35 acres, proposed Lot 2 being approximately 3.32 acres, and proposed Lot 3 being approximately 3.32 acres. Each of the proposed lots has frontage along County Road 202. The applicant has indicated the desire to not construct typically required infrastructure such as water, sanitary sewer, and roads, however the applicant has agreed to provide the easements

for said infrastructure. As such, the applicant is requesting multiple variances from City Council.

**PLATTING STATUS:** In order to subdivide the subject property as proposed by the applicant, several variances to the requirements of the Subdivision Ordinance and International Fire Code are needed. These variances are indicated below:

1. Approval of a variance to Section 142-105 of the Subdivision Ordinance waiving the requirement to construct public streets including the associated street lighting and sidewalks adjacent to the subject property.
  - The City's Subdivision Ordinance requires that C.R. 202, where adjacent to the subject property (approximately 600 feet in length), be constructed by the applicant. Should the applicant be granted a variance waiving the requirement to construct the required portion of C.R. 202, this responsibility may become the responsibility of the City in the future, as the improved roadway becomes necessary to accommodate additional traffic in the area.
2. Approval of a variance to Section 142-105 of the Subdivision Ordinance waiving the requirement to construct sanitary sewer and water lines to the subject property and extend them to the adjacent upstream property.
  - The Subdivision Ordinance requires sanitary sewer and water infrastructure to adequately service the subdivision and conform to the City of McKinney sewer and water plans. The applicant has requested a variance be granted waiving these requirements, and has requested septic systems be used in place of the 36" master planned City sewer system line and the existing water line be utilized in place of the 12" master planned line. If properties are allowed to develop without the provision of adequate public infrastructure, it shifts the burden/cost of providing the master plan sized sanitary sewer and water lines across the site to the City and those seeking to develop upstream.
3. Approval of a variance to Section 142-105 of the Subdivision Ordinance allowing the use of individual septic systems.
4. Approval of a variance to the Storm Water Management Ordinance waiving the requirement to collect drainage in an underground storm water system.
5. Approval of a variance to the Storm Water Management Ordinance prohibiting lot to lot drainage.
6. Approval of a variance to Section 142-105 (Improvements) of the Subdivision Ordinance requiring water systems to be of a sufficient size to furnish fire protection to all lots.

- The applicant has requested a variance to the required water pressures and fire flows since North Collin Water Supply Corporation is not able to provide the fire flow and pressures required by the City of McKinney Fire Department (1000gpm and 20psi residual pressure). The minimum requirements of the City of McKinney are intended to provide sufficient fire protection for the safe, efficient and orderly development of the City. The Fire Marshal has stated homeowners can expect the maximum amount of damage and losses when sufficient water supplies are not provided.

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.

Staff recommends denial of all of the requested variances to the requirements of the Subdivision Ordinance as granting these requested variances will make this area of the ETJ (future City of McKinney) increasingly more difficult to develop in the future. More specifically, approving the requested variances will likely shift the cost of providing infrastructure to this area directly to the City of McKinney or potential future upstream developers. Staff's position is that the requested variances will be detrimental to the public welfare.

**SURROUNDING ZONING AND LAND USES:**

Subject Property: Unzoned – “ETJ” – Extraterritorial Jurisdiction

North	Unzoned – “ETJ” – Extraterritorial Jurisdiction	Undeveloped Land
South	Unzoned – “ETJ” – Extraterritorial Jurisdiction	Single Family Residences
East	Unzoned – “ETJ” – Extraterritorial Jurisdiction	Single Family Residences
West	“PD” – Planned Development District Ordinance No. 1703 (Residential Uses)	Single Family Residences

**ACCESS/CIRCULATION:**

Adjacent Streets: C.R. 202, 60’ Right-of-Way, Collector Street

Discussion: Each of the proposed lots has shown access to C.R. 202 via direct frontage.

The proposed access drives to Lots 1, 2, and 3, are shown to cross over floodplain on the subject property. The Fire Marshal's office has concerns that without access drives raised out of the floodplain and built to withstand the weight of emergency service vehicles, adequate emergency access may not be provided, ultimately limiting the ability to provide aid in life-threatening situations. To mitigate these concerns, the applicant has indicated in the letter of intent that adequate access meeting the Fire Marshal's requirements will be provided at the floodplain crossings to future dwellings located on the subject property.

**TREE PRESERVATION ORDINANCE:** Because the subject property is located within the City of McKinney ETJ, the applicant will not be responsible for complying with the Tree Preservation Ordinance.

**PUBLIC IMPROVEMENTS:**

- |                       |  |
|-----------------------|--|
| Sidewalks:            | Required per the Subdivision Ordinance   |
| Hike and Bike Trails: | Not Applicable   |
| 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.

**DRAINAGE:** The applicant will be responsible for all drainage associated with the subject property, and for compliance with the Storm Water Ordinance, which may require on-site detention, unless the requested variances are approved.

**FEES:**

- |                            |  |
|----------------------------|--|
| Roadway Impact Fees:       | Not Applicable   |
| Utility Impact Fees:       | Applicable (Ordinance No. 2013-11-109 and Ordinance No. 2013-12-118) unless City Council grants the requested variances. |
| 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 Preliminary-Final Plat Approval Checklist
- Location Map and Aerial Exhibit
- Letter of Intent
- Proposed Preliminary-Final Plat
- PowerPoint Presentation