



Agenda Item: 176
Action Date: 02/17/2022
Plat Name: Westlake Park Sec 1 partial replat no 1
Developer: DeBartolo Development, LLC.
Applicant: Terra Associates, Inc.
App No / Type: 2022-0177 C2R

Total Acreage: 4.5370 Total Reserve Acreage: 4.5370
Number of Lots: 0 Number of Multifamily Units: 350
COH Park Sector: 18 Street Type (Category): Type 2 PAE
Water Type: City Wastewater Type: City
Drainage Type: Storm Sewer Utility District:
County Zip Key Map © City / ETJ
Harris 77079 488B City

Conditions and requirements for approval:

- 043. All existing easements and/or fee strips must show record information. Identify all existing easements listed in the title commitment.
047. Make minor corrections and additions as indicated on the marked file copy.
203. Provide complete Recordation Package when submitting plat for recordation. (Recd_pkg.doc)
204. Provide current title opinion in complete agreement with the plat dedication and addressed to the Planning & Development Department. (45)

Add note: Add the following note on face of the plat: The Planning Commission granted a variance to allow the subject site to take access via a private access easement subject to specific conditions on 2/17/2022. The variance approval was contingent on the proposed land use. Any change of land use would make the variance approval invalid and may require a replat.

Commission Action:

Grant the requested variance(s) and Approve the plat subject to the conditions listed
Planning Commission granted the requested variance to allow an unrestricted reserve accessible by access easement rather than public street frontage.



Contact the City of Houston, Planning and Development Department with questions regarding the Planning Commission's action or the conditions or requirements for approval. Call 832-393-6600 and speak with the "Planner of the Day." The Planning and Development Office is located at 611 Walker Street, Sixth Floor, Houston, Texas 77002.

For Your Information:



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The below comments were made by other agencies during this review period. These comments are not to be considered as conditions for approval. However, you may find these comments useful as other plan approvals and permits are sought.

HPW- TDO- Traffic: 02/15/2022

No comments.

HPW-OCE-Traffic: 1. Access Management Form (COH IDM Chapter 15, sec 15.04-A)

An Access Form is required for all commercial developments with the exception of developments with no change in use and/or size. Alterations to roadway access points may result in significant site plan revisions. For this reason, Access Forms should be submitted prior to or during plat submittal.

If a TIA is required or the applicant chooses to prepare a TIA, the completed TIA may be submitted at any time prior to or during the plat submittal. review may result in significant site plan revisions.

The form can be found at Chapter 15 of the Design Manual: <https://www.houstonpermittingcenter.org/office-city-engineer/design-and-construction-standards>

Provide completely filled Access Management Form and provide a dimension site plan to

PWEACCESSFORM@HOUSTONTX.GOV

Email subject should read: Access Management Form Request / Project Number / Address

2. Sidewalks (October 1, 2020)

Please be advised that a new sidewalk ordinance went into effect on October 1, 2020. Planning Department will approve all sidewalk widths and locations. Traffic only reviews for applicability of sidewalk construction details. For more information visit <http://www.houstontx.gov/planning/>

Planning Department Information

Email: Planningdepartment@houstontx.gov

Planner of the day phone #: 832-393-6600

3. Plat should verify that Gracie Ln & Westlake Club Dr are not public ROW.

HPW-HW- IDS: Approved

HPW-OCE- Drainage and Utility: Detention is required.

Stormwater quality permit is required.

CenterPoint: Existing Roadways (35ft N-S and E-W Gracie Ln. in H707658, H710574) and existing electric easements (D348212, H858773, H769760, H864018) may conflict. This requires further review.

Questions concerning the informational comments should be directed to the agency's author. Planning and Development Department staff can assist you in getting the author's contact information. Call the "Planner of the Day" telephone number listed above.

Houston Planning Commission

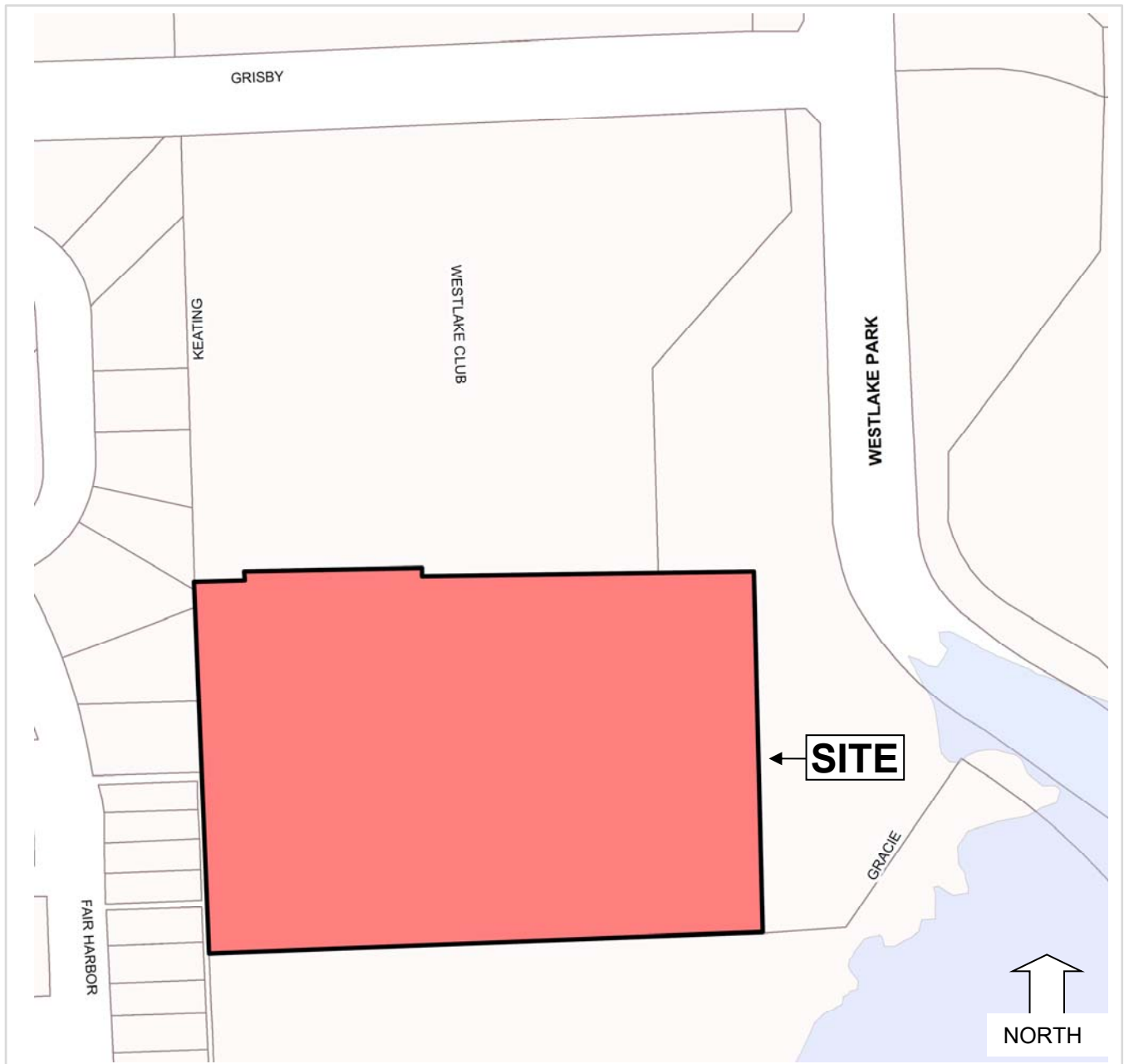
ITEM: 176

Planning and Development Department

Meeting Date: 02/17/2022

Subdivision Name: Westlake Park Sec 1 partial replat no 1

Applicant: Terra Associates, Inc.



D – Variances

Site Location

Houston Planning Commission

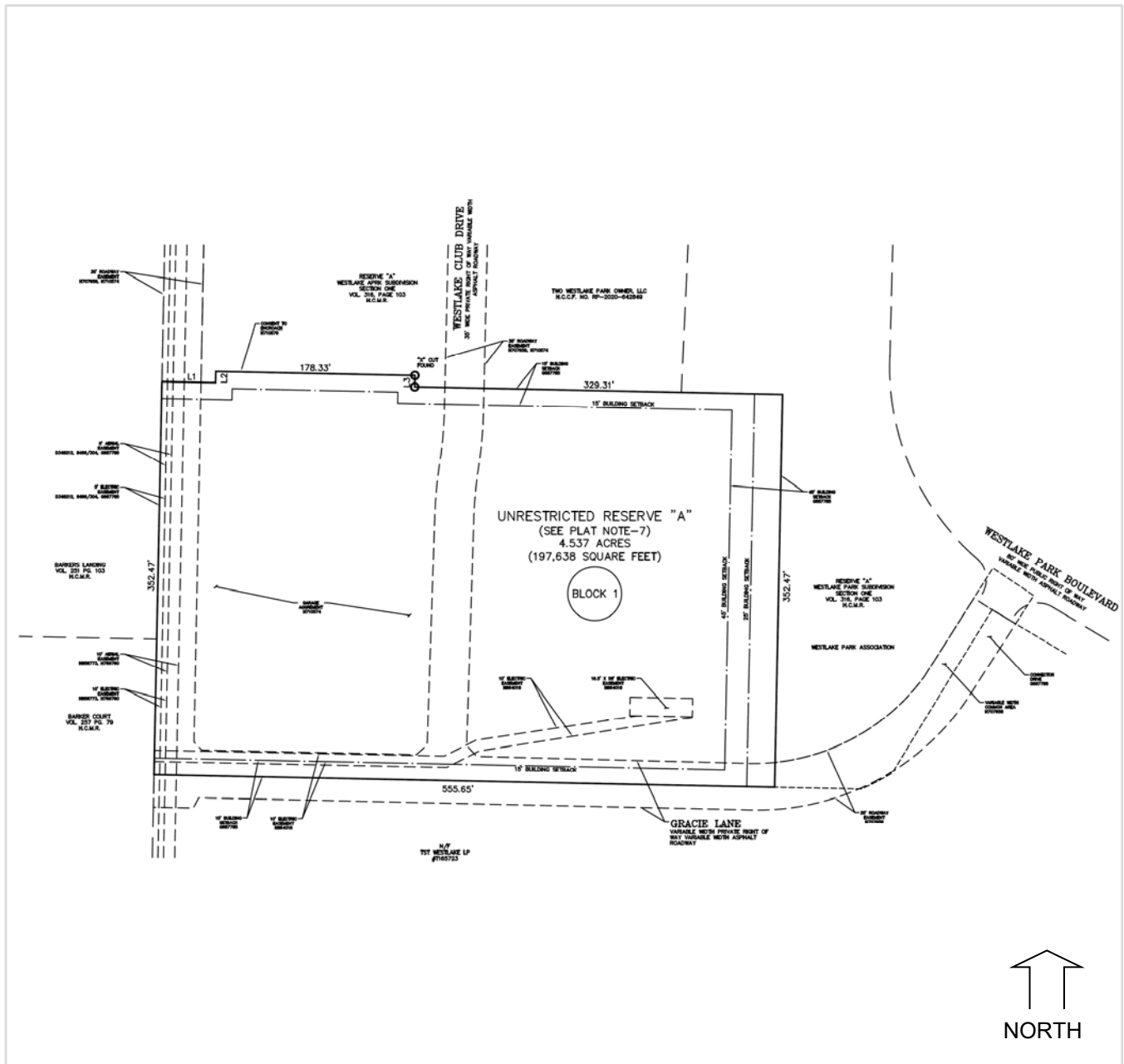
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Planning and Development Department

Meeting Date: 02/17/2022

Subdivision Name: Westlake Park Sec 1 partial replat no 1

Applicant: Terra Associates, Inc.



D – Variances

Subdivision

Houston Planning Commission

ITEM: 176

Planning and Development Department

Meeting Date: 02/17/2022

Subdivision Name: Westlake Park Sec 1 partial replat no 1

Applicant: Terra Associates, Inc.



D – Variances

Aerial



Application Number: 2022-0177

Plat Name: Westlake Park Sec 1 partial replat no 1

Applicant: Terra Associates, Inc.

Date Submitted: 01/24/2022

The applicant bears the burden of providing factual, material, and compelling evidence to support a variance request in the Statement of Facts ("SOF") below. The applicant must write a response to each of the statements as part of their application. Failure to do so will result in the application being deemed incomplete and not placed before the Planning Commission. The applicant may attach additional supporting documents to the application. P&D will not correct, revise, or edit the applicant's information. P&D will formulate its recommendation by evaluating the SOF's information, the additional information provided and any relevant information available to the Department.

(Sec. 42-47 and Sec. 42-81)

Specific Variance is being sought and extent of variance:

To allow existing access via 35' roadway easement (Gracie Ln) HCCF No. H707658 and existing 35' private ROW's (Westlake Club Dr & Keating Rd) HCCF No. 707658 & H710574

Chapter 42 Section: 190

Chapter 42 Reference:

The parcel in question does not have direct frontage on a public ROW. However, the existing parcel has access to two (2) public ROW's Grisyby Road and Westlake Park Drive via three (3) private roadway easements recorded in 1982. These 3 private roadway easements serve the existing development and are not being modified or altered in any way.

Statement of Facts

(1a) The imposition of the terms, rules, conditions, policies and standards of this chapter would create an undue hardship by depriving the applicant of the reasonable use of the land; OR

The project involves renovation of a 19-story office building that sits on 4.537 acre parcel, constructed in 1983, remodeled in 2016, which was originally developed in 1983 as part of the Westlake Park Subdivision Section One, a 63-acre office park. Unfortunately, the office building flooded during Hurricane Harvey, and has sat vacant ever since. DeBartolo Development, based in Tampa, Florida, plans to renovate the abandoned office building to be used as class-A luxury multifamily use. A variance is required to allow the land to be replatted without violating Section 42-190 of the Houston Code of Ordinances, which requires a platted reserve to take access from a public street. The office building currently sits on Reserve "A" as part of Westlake Park Subdivision Section No. 1, approved by the Houston Planning Commission and recorded in 1983. Being part of a previously-approved plat, the land under the office building can be conveyed to a new owner without the need for a replat or a variance per Section 42-21(a). Additionally, the land under the office building could be replatted without a variance if it took access from a public street instead of Gracie Lane, Westlake Club Drive, and Keating Drive, which are private streets established within the covenants and restrictions for the 63-acre Westlake development and have provided access to the office building since 1983. When Westlake was developed, the list of allowed uses within the covenants and restrictions for the development did not allow for multifamily use, therefore the original plat of Westlake contained a plat note that restricted Reserve "A" to nonresidential use, which was a commonly-used plat restriction in the 1980s. Before the office building can be renovated and brought back to life for multifamily use, this plat restriction must be amended. The applicant has been communicating with the Property Owner's Association for Westlake to amend the covenants and restrictions to allow for multifamily use, which must be completed before this replat can be recorded. The replat and renovation of the office building will not result in additional square footage to be added to the existing structure, nor will ingress, egress, and traffic circulation significantly change either. The office building is simply being renovated. Therefore, the strict application of the requirement to take access from a public street would create an undue hardship by depriving the applicant of the ability to perform an interior renovation of this building, which should be considered a reasonable use of the land. The current access to the office building has existed via recorded covenants and restrictions established in 1982. To deny the variance now would serve no purpose other than to enforce a plat note which only exists due to language contained in a 40 year-old set of covenants and restrictions that is currently being amended to allow for multifamily use.

(1b) Strict application would make this project infeasible due to the existence of unusual physical characteristics that affect the property in question, or would create an impractical development or one otherwise contrary to sound public policy;

(2) The circumstances supporting the granting of the variance are not the result of a hardship created or imposed by the applicant;

The circumstances supporting the granting of the variance are not the result of a hardship created or imposed by the applicant. The replat is to allow for the removal of a plat note that supports covenants and restrictions that are being amended by the applicant. The applicant must also amend the plat note based on that. The purpose of the variance request is to simply allow for access that was originally allowed when Westlake Park Subdivision was originally developed in 1982. The applicant is not seeking additional access or a modification to the current access points which are serving an existing development.

(3) The intent and general purposes of this chapter will be preserved and maintained;

The intent and general purposes of this chapter will be preserved and maintained. Chapter 42-190 prevents land-locked reserves from being developed. The purpose of that requirement is satisfied by the multiple access points that are in place to serve the development. These access points were established in 1982 via covenants and restrictions recorded in the County Clerk's office that provide access to the office building within the currently platted subdivision.

(4) The granting of the variance will not be injurious to the public health, safety or welfare;

The granting of the variance will not be injurious to the public health, safety or welfare. The renovated class-A luxury multifamily building will rely on the same access and parking as the existing office building and will have the same footprint and height except that some interior and rooftop remodeling may occur, which should not affect exterior access to the building. The applicant expects there to be no change at all on any impact to health, safety, and welfare associated with the current development.

(5) Economic hardship is not the sole justification of the variance.

There are several non-economic justifications for the variance including the access from private streets, which is typically allowed within large commercial developments like Westlake, as well as the previously-approved plat note, which operates as a restriction that prevents the renovation until the plat can be amended through this replat. Therefore, while there is economic benefit to the applicant similar to the economic benefit that comes from real estate development generally, it is not the sole justification.



Application No: 2022-0177

Agenda Item: 176

PC Action Date: 02/17/2022

Plat Name: Westlake Park Sec 1 partial replat no 1

Applicant: Terra Associates, Inc.

Staff Recommendation:

Chapter 42 Sections: 190

Specific variance is being sought and extent of variance: (Sec. 42-47 and Sec. 42-81)

To allow existing access via 35' roadway easement (Gracie Ln) HCCF No. H707658 and existing 35' private ROW's (Westlake Club Dr & Keating Rd) HCCF No. 707658 & H710574;

Basis of Recommendation:

Westlake Park Sec 1 partial replat no 1 is located within the City, south of Grisby Road and west of Westlake Park Boulevard. The applicant is proposing one (1) unrestricted reserve intended for a multifamily development. The applicant is requesting a variance to allow the reserves to take access via three, improved 35' roadway easements rather than the required 60' public street frontage. Staff is in support of the request.

The applicant is replatting the property to renovate an existing 19-story office building into a multifamily residential development with 350 units. The replat will also change the platted land use, which currently does not allow multifamily residential uses. They are currently in communication with the Property Owner's Association for Westlake to amend the covenants and restrictions to allow for multifamily use, which will be completed prior to recordation. The roadway easements feature concrete curb and gutter paving and is currently used and maintained similarly to a public right-of-way and serve the intent of Ch.42.

Statement of Facts

(1a) The imposition of the terms, rules, conditions, policies and standards of this chapter would create an undue hardship by depriving the applicant of the reasonable use of the land; OR

The applicant is proposing to renovate a 19-story office building into a multifamily residential development. Strict application of the requirement to take access from a public street would create an undue hardship by landlocking the property. The current access to the office building has existed via recorded covenants and restrictions established in 1982. Granting the variance would allow for the proposed use to continue using the existing roadway easement, which is in use and maintained in good condition.

(1b) Strict application would make this project infeasible due to the existence of unusual physical characteristics that affect the property in question, or would create an impractical development or one otherwise contrary to sound public policy;

N/A

(2) The circumstances supporting the granting of the variance are not the result of a hardship created or imposed by the applicant;

The easements were created when Westlake Park was originally developed in 1982. Granting the variance would allow the reserve to continue taking access via easements.

(3) The intent and general purposes of this chapter will be preserved and maintained;

The reserve will have access to three existing roadway easements which connect to public right of way. The easements are already built and serve the same purpose as a public right of way.

(4) The granting of the variance will not be injurious to the public health, safety or welfare;

Granting this variance will not adversely impact public health, safety, or welfare. The reserve would be taking access via existing easements.

(5) Economic hardship is not the sole justification of the variance.

The variance would allow for the proposed development to utilize the existing roadway infrastructure.



CITY OF HOUSTON

Planning and Development

Sylvester Turner

Mayor

Margaret Wallace Brown
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February 10, 2022

NOTICE OF VARIANCE

PROJECT NAME: Westlake Park Sec 1 partial replat no 1

REFERENCE NUMBER: 2022-0177



Dear Property Owner:

The Planning and Development Department has received a subdivision plat application with a variance request for a property located at the intersection of Westlake Club Drive and Gracie Lane, south of Grisby Road and west of Westlake Park Boulevard. You are receiving this letter because you are listed in the Harris County Appraisal District records as a neighboring owner for property that falls within the Chapter 42 required notification area adjacent to this variance request.

Terra Associates, the applicant, has filed the request on behalf of the developer of the subject site. The applicant is requesting a variance to allow existing access via 35' private roadways, Gracie Ln, Westlake Club Dr, and Keating Road. Enclosed are copies of the variance request and the proposed subdivision plat submitted by the applicant.

The Planning and Development Department staff is currently reviewing this application and will present a recommendation to the Houston Planning Commission. The Commission is the non-legislative body authorized to review and render decisions on subdivision applications and requests. A sign with this information has also been posted on the project site. The Houston Planning Commission will hold a public meeting to consider this application.

PLANNING COMMISSION MEETING INFORMATION:

Thursday, February 17, 2022, beginning at 2:30 p.m.

City Hall Annex Building, 900 Bagby Street

City Council Chamber, Public Level, Houston, Texas

Members of the public may make comments or express concerns about the proposed project by either attending the meeting at City Council Chamber listed above or attending the meeting via Microsoft Teams at the time listed above. The Microsoft Teams meeting will allow for a two-way video/ audio communication with the Houston Planning Commission. **For instruction on how to join the Microsoft Teams meeting, interested persons are advised to check our website 72 hours prior to the Planning Commission meeting: www.houstonplanning.com or Call: 832-393-6624.**

You may also submit comments or sign up as speakers in the following ways:

1. Send email to: speakercomments.pc@houstontx.gov,

Please submit written comments or sign up as speakers at least 24 hours in advance of the meeting, so staff may compile them in order of the agenda items. ALL comments submitted will be made part of the meeting record. Speakers who signed up to speak will be allowed to make their comments during the meeting.

2. Call the Planning Department at: 832-393-6624 at least 24 hours in advance of the meeting to sign up to speak.

For additional information regarding this project, please call Kevin Polasek with Terra Associates at 713-993-0333 ext 105. You may also contact Tamara Fou with the Planning and Development Department regarding this notice via email at planning.variances@houstontx.gov or call (832)393-6600. To view the complete Planning Commission meeting agenda, go to www.houstonplanning.com. Information on the reverse side of this page explains more about the terminology used in this letter.

THE PLAT MAY BE DEFERRED. THE NEW DATE FOR COMMISSION ACTION WILL BE INDICATED ON THE POSTED SIGN(S) THE MONDAY MORNING FOLLOWING THE PLANNING COMMISSION DEFERRAL.

Para más información acerca de este documento, favor de llamar al Departamento de Planificación y Desarrollo al 832-393-6659.

TERMINOLOGY

- **CHAPTER 42:** The City of Houston's, Code of Ordinances that describes the rules and regulations for subdividing property within the corporate limits and the extraterritorial jurisdiction.
- **EXTRATERRITORIAL JURISDICTION (ETJ):** Represents the area extending beyond Houston's corporate limits approximately five miles into the unincorporated areas of Harris, Fort Bend, Liberty, Montgomery, and Waller counties.
- **SUBDIVISION PLAT:** A graphical presentation of a particular surveyed tract of land laying out street rights-of-way, lots and reserves, building setback lines, and easements which must comply with the development requirements of the City of Houston's, Code of Ordinances, Chapter 42. These regulations, adopted by City Council, are intended to promote the safe, orderly and healthy development of the City and its extraterritorial jurisdiction. The approved map subsequently may be filed and recorded with the appropriate county clerk's office as the official map of record for this property.
- **SUBDIVISION REPLAT:** Is simply a subdivision plat that further subdivides an existing subdivision plat. Typically, a replat will make changes to the layout of lots, reserves, building setback lines and easements.
- **VARIANCE:** A deviation from strict compliance with the rules and regulations of Chapter 42. The applicant must document a reasonable hardship that staff can evaluate.
- **SPECIAL EXCEPTION:** A commission-approved adjustment to the certain standards of Chapter 42. The applicant must document existing special circumstances unique to the land that justify modification of the development standards.

PLANNING COMMISSION BODY, AUTHORITY AND OBLIGATION

- The Houston Planning Commission is a non-legislative body authorized to govern the subdivision rules and regulations described in Chapter 42. The Commission consists of 25 members and meets every two weeks per their adopted Commission meeting schedule.

PLANNING DEPARTMENT STAFF, AUTHORITY AND OBLIGATION

- Development Services Division reviews subdivision plats, replats and development plats for compliance with the rules and regulations described in Chapter 42. Development plats must also comply with Chapter 26 (Off-street Parking and Loading) and Chapter 33 (Trees, Shrubs and Screening Fences).

CITY OF HOUSTON SEC. 42-82 AND 42-83

- Notification to property owners within 250 feet of certain proposed development applications with a requested variance is required. The proposed development must be located within the city limits.

PROPERTY OWNERSHIP INFORMATION

- For notification purposes, property ownership information and property owner mailing addresses are obtained from the most recent property tax rolls of the county in which the property is located.
- Addressed envelopes and postage are provided by the applicant.