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Professional Development Consultants
Land Surveying, Platting, Project Management and GIS Services

REQUEST FOR SUBDIVISION VARIANCE



DATE: December 9, 2015

TO: Mr. Andy Meyers
Fort Bend County Commissioner, Precinct 3
22333 Grand Corner Drive
Katy, TX 77494

FROM: Andrew Allemand, Project Manager *AA*
Windrose Land Services, Inc.

RE: Fulshear Retail (WLS Job No. 52115)

Mr. Meyers,

On behalf of our client, J. Guidry LTD., a Texas limited partnership, herein referred to as the "applicant", we hereby request a variance for the referenced subdivision in accordance with Section 2.21 "Variances", Fort Bend County Regulation of Subdivisions.

Because the applicant's proposed subdivision is adjacent to a thoroughfare(s) per the Fort Bend County Thoroughfare Plan, they must dedicate a 10-foot landscape reserve against the thoroughfare(s). Fort Bend County Regulations of Subdivisions, Section 7 "Green Space Regulations", Subsection 7.3 "Green Space along Major Thoroughfares", Paragraph A "Landscape Reserves", Subparagraph 1 states, "An additional 10 feet of land on each side of a major thoroughfare right of way shall be dedicated as landscape reserves." This requirement is in direct conflict with Section 42-180, Paragraph A, Subsection 3 of the City of Houston's Code of Ordinances that requires that "direct vehicular access is provided from a street, shared driveway, or alley." The following describes how the applicant's request addresses the variance conditions outlined in the County's subdivision regulations.

1. *There are special circumstances or conditions affecting the land involved such that the strict application of the provisions of this chapter would deprive the applicant of the reasonable use of his land;*

The circumstances supporting the variance are the result of the conflict between the City of Houston and Fort Bend County subdivision regulations. Because conformance with both sets of regulations is impossible without a variance, the applicant cannot proceed with any development and is being deprived of all use of their land. The proposed solution of using a landscape easement and seeking a County subdivision variance has been well-coordinated by all key players and is the most viable compromise in the face of a very difficult situation.

2. *The granting of the variance will not be detrimental to the public safety or welfare, or injurious to other property in the area;*

The development will look/function like any other development in the County that has a landscape easement/setback, ensuring that all Codes designed to protect the public's health, safety and welfare are maintained. The applicant will ensure that all other site development issues will be coordinated with and approved by County as part of the development permitting process. To that end, the applicant's engineer – Big Red Dog Engineering - has already received approval for the associated set of construction plans.

Page 1

3. *The granting of the variance will not have the effect of preventing the orderly subdivision of other lands in the area in accordance with the provisions of this chapter; and*

If the County chooses to grant the variance, the resulting development will look and function like other developments that have a landscape reserve. Because the solution enables the applicant to move forward with their development and the end result is consistent with County regulations, granting the variance will not have the effect of preventing the orderly subdivision of land in the area. Further, the right-of-way widths at this location meet the County's Thoroughfare and Subdivision Regulation requirements. Because no right-of-way widening will be necessary in the foreseeable future, the lack of an actual reserve at this location does not negatively impact County right-of-way acquisition plans or the viability of the applicant's plat boundary.

4. *A more appropriate design solution exists which is not currently allowed in this chapter.*

Granting the variance is the only way to create a development that meets the intent of the City of Houston and Fort Bend County regulations. By using an easement in lieu of an actual reserve, the applicant is able to restrict the landscaping area necessary to address County requirements and maintain right-of-way frontage for the principal reserve in order to meet City of Houston access requirements. The applicant appreciates the County's assistance to this point and for their continued consideration of this variance request.