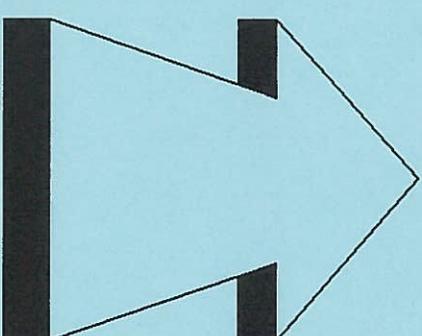


**The Planning &
Zoning Commission
will be meeting in
the 2nd floor
conference room.**





Planning and Zoning Commission



903 Port Houston St.
Houston, Texas 77029
(713) 671-5350
Fax: (713) 671-5360

August 14, 1992

Planning and Zoning Commission

Dear Sirs:

I would like to request a variance for sidewalks for my home at 2717 Green Tee Drive, Pearland, Texas 77581. To be in compliance with the deed restrictions for sidewalks 9 feet from the curb, I would need to remove two of the largest trees on my property. Also, not any homes have been built on either side of my property, there are only vacant lots one of which is a developer's lot which cannot be built on.

There has been a precedent set for this request. A number of homes, as listed below, do not have sidewalks, but have circular drives such as my home, or their sidewalks vary from the deed restrictions.

1. Properties without sidewalks:

2428 Cork	2515 Green Tee Drive
2602 Green Tee Drive	2317 Fairway Circle

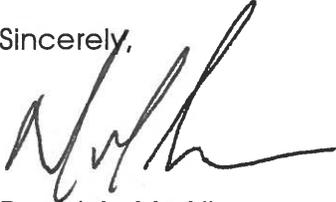
2. Sidewalks that vary from 9' restriction:

All new Perry homes	
2429 Cork	2701 Green Tee Drive
2430 Cork	2703 Green Tee Drive
2431 Cork	2703 Green Tee Drive
2432 Cork	2613 Green Tee Drive
2318 Fairway Circle	2511 Green Tee Drive
3043 Green Tee Drive	2417 Green Tee Drive
3033 Green Tee Drive	2302 Kerry Circle
3031 Green Tee Drive	2304 Kerry Circle
3017 Green Tee Drive	2303 Kerry Circle
3015 Green Tee Drive	2305 Kerry Circle
2302 Dublin Circle	2301 Dublin Circle
2303 Dublin Circle	2304 Caloway
2302 Caloway	2301 Caloway
2303 Caloway	3003 Price Circle

Page 2

Thank you for your quick response to this matter, as the permanent financing for the home is being held up until this matter is resolved.

Sincerely,

A handwritten signature in black ink, appearing to read 'D. McAllen', with a long horizontal flourish extending to the right.

David A. McAllen
Vice President - Operations

FINAL PLAT
COLONY PARK COMMERCIAL
SECTION 2
PEARLAND, BRAZORIA COUNTY, TEXAS
2 LOTS 1 BLOCK
JULY 1992

REVISED 08-01-92
REVISED 08-20-92

A REPLAT OF 7.1193 ACRES BEING LOT CC OF THE COLONY PARK
COMMERCIAL SUBDIVISION RECORDED IN VOLUME 16, PAGE 295,
PLAT RECORDS, BRAZORIA COUNTY, TEXAS OUT OF LOT 11, OF THE
H. MORTENSON SUBDIVISION OF SECTION 5, H.T. & B.R.R. CO.
SURVEY, ABSTRACT 237, BRAZORIA COUNTY, TEXAS.

OWNER:

ALVIN STATE BANK
221 SOUTH GORDON
ALVIN, TEXAS 77511
331-6411
VIRGIL MCDONALD, EXECUTIVE VICE PRESIDENT

ENGINEER & SURVEYOR:

LENTZ ENGINEERING
1328 SOUTH LOOP WEST
SUITE 201
HOUSTON, TEXAS 77054

RECT, AND THAT ALL BLOCK CORNERS, ANGLE POINTS, AND POINTS OF
RVATURE WILL BE PROPERLY MARKED WITH IRON RODS.

Alfred E. Lentz 08-10-92
ALFRED E. LENTZ, R.P.L.S. #2413



08-10-92

CERTIFICATE OF CITY PLANNING COMMISSION

THIS IS TO CERTIFY THAT THE CITY PLANNING COMMISSION OF THE
CITY OF PEARLAND, TEXAS HAS APPROVED THIS PLAT AND SUBDIVISION OF
LUNY PARK COMMERCIAL, SECTION 2, IN CONFORMANCE WITH THE LAWS OF
THE STATE OF TEXAS AND ORDINANCES OF THE CITY OF PEARLAND AS SHOWN
HEREON AND AUTHORIZED THE RECORDING OF THIS PLAT THIS _____ DAY
_____, 1992.

ALFRED E. LENTZ, CHAIRMAN

HELEN BECKMAN, MEMBER

JIM BELTZ, VICE CHAIRMAN

JAMES GARNER, MEMBER

JOE LOPEZ, MEMBER

MARY STARR, MEMBER

BOB WOMACK, MEMBER

FINAL PLAT
WHISPERING WINDS
SECTION 2
3 LOTS 1 BLOCK
JULY, 1992

A REPLAT OF 4.5456 ACRES BEING ALL OF TRACT "C" OF THE
MARTHA ALEXANDER CROUCH SUBDIVISION SECTION ONE RECORDED IN
VOLUME 16, PAGE 353 & 354, PLAT RECORDS, BRAZORIA COUNTY,
TEXAS AND ALL OF TRACT "C" OF THE WHISPERING WINDS GENERAL
BUSINESS RESERVE RECORDED IN VOLUME 17, PAGES 93 & 94, PLAT
RECORDS, BRAZORIA COUNTY, TEXAS, OUT OF THE THOMAS J. GREEN
SURVEY ABSTRACT NO. 198, BRAZORIA COUNTY, TEXAS.

OWNER:
FIRST NATIONAL BANK OF PEARLAND
3102 EAST BROADWAY
PEARLAND, TEXAS 77588
(713) 485-2423
A. HARREL BLACKSHEAR, PRESIDENT

OWNER:
CARL H. ELLIS AND WIFE,
JOYCE A. ELLIS
1515 PRINCE DRIVE
ALVIN, TEXAS 77511
(713) 331-5015

ENGINEER:
LENTZ ENGINEERING
1328 SOUTH LOOP WEST, SUITE 201
HOUSTON, TEXAS 77054
(713) 769-1212



08-11-92

PRELIMINARY PLAT
WHISPERING WINDS
SECTION 2
3 LOTS 1 BLOCK
JULY, 1992

A REPLAT OF 4.5456 ACRES BEING ALL OF TRACT "C" OF THE MARTHA ALEXANDER CROUCH SUBDIVISION SECTION ONE RECORDED IN VOLUME 16, PAGE 353 & 354, PLAT RECORDS, BRAZORIA COUNTY, TEXAS AND ALL OF TRACT "C" OF THE WHISPERING WINDS GENERAL BUSINESS RESERVE RECORDED IN VOLUME 17, PAGES 93 & 94, PLAT RECORDS, BRAZORIA COUNTY, TEXAS, OUT OF THE THOMAS J. GREEN SURVEY ABSTRACT NO. 198, BRAZORIA COUNTY, TEXAS.

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ENGINEER:
LENTZ ENGINEERING
1328 SOUTH LOOP WEST, SUITE 201
HOUSTON, TEXAS 77054
(713) 769-1212

MINUTES OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF PEARLAND, TEXAS, HELD ON TUESDAY, SEPTEMBER 1, 1992, AT 7:00 P.M. IN THE COUNCIL CHAMBERS, CITY HALL, 3519 LIBERTY DRIVE, PEARLAND, TEXAS.

The meeting was called to order at 7:00 P.M. with the following present:

Acting Chairman	Emil Beltz
Commissioner	Jack Womack
Commissioner	Richard Tetens
Commissioner	Helen Beckman
Commissioner	Mary Starr
Commissioner	James Garner
Commissioner	Pat Lopez
Division Director of Planning, Public Works & Parks	Richard Burdine
City Engineer	John Hargrove
Chief Building Official	Don Guynes
Asst. to City Secretary	Leslie Schroeder

APPROVAL OF MINUTES

It was moved by Pat Lopez, seconded by James Garner, that the minutes of the July 27, 1992 meeting be approved as submitted.

Motion passed 4 to 0 with Richard Tetens, Helen Beckman and Mary Starr abstaining.

It was moved by Richard Tetens, seconded by Helen Beckman, that the minutes of the August 18, 1992 meeting be approved as submitted.

Motion passed 4 to 0 with Jack Womack, Mary Starr and James Garner abstaining.

NEW BUSINESS

CONSIDERATION AND POSSIBLE ACTION - ELECTION OF A CHAIRMAN.

Helen Beckman opened by nominating Richard Tetens as Chairman, seconded by Mary Starr.

The Commission voted 6 to 0 with Richard Tetens abstaining.

Acting Chairman Beltz stepped down from the Chair and turned the meeting over to Chairman Tetens.

CONSIDERATION AND POSSIBLE ACTION - REQUEST OF DAVID A. MCALLEN, OWNER, FOR A VARIANCE TO OMIT SIDEWALKS AT 2717 GREEN TEE DRIVE, AS REQUIRED BY THE SUBDIVISION ORDINANCE SECTION 27-4B(3).

Commissioner Beckman relayed to the Commission that she surveyed the area and determined that there are several houses which do not have sidewalks. It was not determined how these homeowners were allowed to eliminate these sidewalks on their property. She added that she felt a sidewalk should be required from the edge of each lot.

Mr. McAllen stated that he would be agreeable to extend the sidewalk from the edge of the property to the circular driveway on each side, allowing continuous sidewalks.

After no further discussion, it was moved by Helen Beckman, seconded by Mary Starr, that a variance request be approved contingent upon the sidewalks extending from the driveway to the property line.

Motion passed 6 to 1 with Emil Beltz voting no.

CONSIDERATION AND POSSIBLE ACTION -FINAL PLAT OF COLONY PARK COMMERCIAL SECTION 2, BEING A REPLAT OF 7.1193 ACRES RECORDED IN VOL. 16, PG. 295, PLAT RECORDS, BRAZORIA COUNTY, TEXAS OUT OF LOT 11, OF THE H. MORTENSON SUBDIVISION OF SECTION 5, H.T.&B.R.R. CO. SURVEY, ABSTRACT 237, BRAZORIA COUNTY, TEXAS.

Mr. Eddie Kirst, engineer with Lentz Engineering, reported to the Commission that all corrections have been made on the plat. It was also noted that this plat was deferred from the last meeting pending these corrections.

After no discussion, it was moved by Mary Starr, seconded by Pat Lopez, that the final plat of Colony Park Commercial Section 2, be approved as submitted.

Motion passed 7 to 0.

CONSIDERATION AND POSSIBLE ACTION - PRELIMINARY PLAT OF WHISPERING WINDS SECTION 2, A REPLAT OF 4.5456 ACRES BEING ALL OF TRACT "C" OF THE MARTHA ALEXANDER CROUCH SUBDIVISION SECTION ONE RECORDED IN VOLUME 16, PG. 353 AND 354 PLAT RECORDS, BRAZORIA COUNTY, TEXAS.

Don Guynes, Chief Building Official, reported to the Commission that it is the recommendation of the Staff to table action on this plat until the drainage plans are received and reviewed by the City

Engineer.

It was moved by James Garner, seconded by Mary Starr, that the preliminary plat of Whispering Winds Section 2, be tabled until the drainage plan has been reviewed.

Motion passed 7 to 0.

CONSIDERATION AND POSSIBLE ACTION - FINAL PLAT OF WHISPERING WINDS SECTION 2, A REPLAT OF 4.5456 ACRES BEING ALL OF TRACT "C" OF THE MARTHA ALEXANDER CROUCH SUBDIVISION SECTION ONE RECORDED IN VOLUME 16, PG. 353 AND 354 PLAT RECORDS, BRAZORIA COUNTY, TEXAS.

It was moved by Mary Starr, seconded by Helen Beckman, that the final plat of Whispering Winds Section 2, be table until such time action has been taken on the preliminary plat.

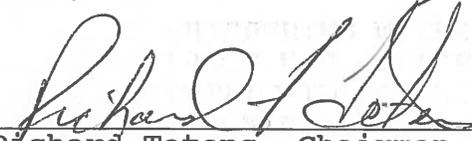
DIRECTOR'S REPORT

Richard Burdine, Director of Planning, Public Works and Parks, reported to the Commission that surveying is currently being done on the corner of F.M. 518 and Liberty. He added there is a food chain looking at the land for possible future construction.

ADJOURN

The meeting adjourned at 7:45 P.M.

Minutes of the meeting approved as submitted and/or corrected this 21st day of September, A.D., 1992.


Richard Tetens, Chairman

ATTEST:


Pat Jones, City Secretary



City of Pearland

P. O. Box 2068 • Pearland, Texas 77588-2068 • 485-2411

TO: Planning and Zoning Commission

FROM: Don E. Guynes, Chief Building Official

DATE: August 25, 1992

RE: Preliminary Plat of Whispering Winds

The following are suggested changes for your approval on the above mentioned plat:

1. Lot C, Block 1, facing FM 518, should reflect a 10' dedication for 120' Right of Way.
2. Lots A & B, Block 1 should reflect a 25' building line.
3. Preliminary plat fees of \$412.50 and final plat fees of \$390.00 need to be paid.
4. Rear yards on Lots A & B should show a 16' Utility Easement.



City of Pearland

P. O. Box 2068 • Pearland, Texas 77588-2068 • 485-2411

TO: Planning and Zoning Commission

FROM: Don E. Guynes, Chief Building Official

DATE: August 25, 1992

RE: Final Plat of Whispering Winds

The following are suggested changes for your approval on the above mentioned plat:

1. Remove "Al Lentz" and "Chairman" from Planning & Zoning Block. Add "Richard Tetens".
2. Dedication of 10' for a Right of Way of 120'.
3. Plat must be signed by owner or agent.
4. One Permanent Bench Mark per 10' acres required on plat.
5. 25' building line for Lots A & D.
6. 16' Utility Easement required.
7. Need block for City Engineer and City Attorney.

AGENDA - NOTICE OF A REGULAR PLANNING AND ZONING COMMISSION MEETING OF THE CITY OF PEARLAND, TEXAS, TO BE HELD TUESDAY, SEPTEMBER 1, 1992, AT 7:00 P.M., IN THE COUNCIL CHAMBERS, CITY HALL, 3519 LIBERTY DRIVE, PEARLAND, TEXAS

- I. CALL TO ORDER
- II. APPROVAL OF MINUTES: Meetings of July 27, 1992 and August 18, 1992
- III. NEW BUSINESS
 1. CONSIDERATION AND POSSIBLE ACTION - ELECTION OF A CHAIRMAN.
 2. CONSIDERATION AND POSSIBLE ACTION - REQUEST OF DAVID A. MCALLEN, OWNER, FOR A VARIANCE TO OMIT SIDEWALKS AT 2717 GREEN TEE DRIVE, AS REQUIRED BY THE SUBDIVISION ORDINANCE SECTION 27-4B(3).
 3. CONSIDERATION AND POSSIBLE ACTION - FINAL PLAT OF COLONY PARK COMMERCIAL SECTION 2, BEING A REPLAT OF 7.1193 ACRES RECORDED IN VOL. 16, PG. 295, PLAT RECORDS, BRAZORIA COUNTY, TEXAS OUT OF LOT 11, OF THE H. MORTENSON SUBDIVISION OF SECTION 5, H.T.&B.R.R. CO. SURVEY, ABSTRACT 237, BRAZORIA COUNTY, TEXAS.
 4. CONSIDERATION AND POSSIBLE ACTION - PRELIMINARY PLAT OF WHISPERING WINDS SECTION 2, A REPLAT OF 4.5456 ACRES BEING ALL OF TRACT "C" OF THE MARTHA ALEXANDER CROUCH SUBDIVISION SECTION ONE RECORDED IN VOLUME 16, PG. 353 & 354 PLAT RECORDS, BRAZORIA COUNTY, TEXAS.
 5. CONSIDERATION AND POSSIBLE ACTION - FINAL PLAT OF WHISPERING WINDS SECTION 2, A REPLAT OF 4.5456 ACRES BEING ALL OF TRACT "C" OF THE MARTHA ALEXANDER CROUCH SUBDIVISION SECTION ONE RECORDED IN VOLUME 16, PG. 353 & 354 PLAT RECORDS, BRAZORIA COUNTY, TEXAS.
- IV. DIRECTORS REPORT
- V. ADJOURN

POSTED: 28TH DAY OF August, A.D., 1992 5:00 P.M.
REMOVED: 4TH DAY OF September, A.D., 1992.

DRAFT

PLANNING AND ZONING COMMISSION

PEARLAND, TEXAS

RULES OF PROCEDURE

1.00 ORGANIZATION AND OFFICERS

1.01 ORGANIZATION

The Planning and Zoning Commission shall consist of those members appointed by the City Council and shall be organized under the laws of the State of Texas, the City Charter, and Ordinance No. 509.

1.02 OFFICERS

A Chairman and Vice Chairman shall be elected annually. Replacements shall be elected at such time these offices may become vacant. If at any meeting of the Planning and Zoning Commission neither the Chairman nor Vice Chairman is present or are abstaining from discussion, then those Commission members present shall elect one of their number to be the Chairman for conducting the meeting as provided herein.

1.03 DUTIES

The Chairman, or in the absence of the Chairman, the Vice Chairman or other member elected as temporary chairman, shall preside at meetings and shall decide all points of order or procedure.

1.04 RULES OF ORDER

Robert's Rules of Order, latest revision, shall be the Commission's final authority on all questions of procedure and parliamentary law not covered by these Rules of Procedure or the City's Charter.

2.00 MEETINGS

2.01 MEETING DATE

The Regular meeting of Planning and Zoning Commission shall be held on the first Tuesday of each month at 7:00 P.M. If in any month the Regular Meeting cannot be held on that day, it shall be held on the third Tuesday of that month.

2.02 QUORUM

A quorum shall consist of a majority of the members qualified and serving on the Commission.

2.03 PRESIDING OFFICER

The Chairman, or in his absence the Vice Chairman, shall preside at all meetings of the Commission. In the absence of the Chairman and the Vice Chairman, any member elected by a majority of the Commission at such meeting may preside unless another member has been designated by the Chairman for such purpose.

2.04 AGENDA

An agenda shall be prepared by the person performing the duties of the City Secretary for each meeting of the Commission. The agenda shall include applications prepared and submitted according to ordinance and procedures provided herein.

2.05 CITIZEN'S RIGHT TO BE HEARD

Any citizen wishing to address the Commission may do so by registering on a sign-up sheet, maintained by the person performing the duties of the City Secretary for each meeting of the Commission, not less than fifteen (15) minutes in advance of the scheduled Commission meeting. All requests must be clearly defined as to subject matter. Citizens shall be heard for a period not to exceed five (5) minutes unless extended by a majority of the Commissioners present. No member of the public shall be heard unless recognized by the Chairman. Any member of the public who interrupt the Commission proceedings, fails to abide by these rules of procedure in addressing the Commission, or is otherwise disruptive to the extent the Commission is unable to conduct its meeting in an orderly fashion, shall be subject to removal from the meeting place upon the direction of the Commission. Records relating to items before the Commission shall be available for public inspection at the City Hall.

3.00 CONDUCTION OF MEETINGS

3.01 CALL TO ORDER

If it has been determined a quorum is present, at the hour of the meeting, the Chairman or acting Chairman shall assume the Chair and call the Commission to order.

3.02 ORDER OF BUSINESS

The Secretary shall record the members present and absent;

minutes of prior meetings shall be considered for approval; reports of the Chairman shall be received; citizens or others shall be heard; and other items placed on the agenda shall be heard; adjournment.

3.03 VOTE REQUIRED

An affirmative vote of a majority of the Commissioners present at any meeting shall be necessary to approve items of business.

4.00 MINUTES

The structure of the Minutes shall follow the order of the agenda or as it might be amended. The content of minutes shall recognize all information presented to the Commission whether by staff, other public agencies or commissions, community groups, or interested parties. The minutes shall provide formal record of the Commission's actions, including the name of the mover and seconder by motions, the specific construction of motions, and the voting record.

PASSED, APPROVED, and ADOPTED by the Planning and Zoning Commission of the City of Pearland on this _____ day of _____, A.D., 1992.

Al Lentz
Chairman

ATTEST:

Pat Jones
City Secretary

ORDINANCE NO. 421-6

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF CITY OF PEARLAND, TEXAS, AT CHAPTER 27, SUBDIVISIONS, BY ADDING SECTION 27-10 FOR THE PURPOSE OF ESTABLISHING RULES AND PROCEDURES FOR AMENDING PLATS; CONTAINING A SAVINGS CLAUSE, A SEVERABILITY CLAUSE AND AN EFFECTIVE DATE.

WHEREAS, Section 212.016 of the Local Government Code authorizes a municipal authority responsible for approving plats to approve and issue an amending plat under certain circumstances;

WHEREAS, the Planning and Zoning Commission has recommended to the City Council that provisions of the aforementioned statute be adopted insofar as they pertain to areas of the City zoned R-1, R-2, R-3, R-4, or MF; now, therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PEARLAND, TEXAS:

Section 1. The Code of Ordinances of City of Pearland, as the same may have been heretofore from time to time amended, is further amended at Chapter 27, Subdivisions, by the inclusion of a new Section 27-10, which shall hereafter read as follows:

"Sec. 27-10. Amending Plat.

(a) The Planning and Zoning Commission may approve and issue an amending plat, which may be recorded and is controlling over the preceding plat without vacation of that plat, if the amending plat is signed by the applicants only and is solely for one or more of the following purposes:

- (1) to correct an error in a course or distance shown on the preceding plat;
- (2) to add a course or distance that was omitted on the preceding plat;
- (3) to correct an error in a real property description shown on the preceding plat;
- (4) to indicate monuments set after the death, disability, or retirement from practice of the engineer or surveyor responsible for setting monuments;
- (5) to show the location or character of a monument that has been changed in location or character or that is shown incorrectly as to location or character on the preceding plat;
- (6) to correct any other type of scrivener or clerical error or omission previously approved by the municipal authority responsible for approving plats, including lot numbers, acreage, street names, and identification of adjacent recorded plats;

- (7) to correct an error in courses and distances of lot lines between two adjacent lots if:
 - (A) both lot owners join in the application for amending the plat;
 - (B) neither lot is abolished;
 - (C) the amendment does not attempt to remove recorded covenants or restrictions; and
 - (D) the amendment does not have a material adverse effect on the property rights of the other owners in the plat;
 - (8) to relocate a lot line to eliminate an inadvertent encroachment of a building or other improvement on a lot line or easement;
 - (9) to relocate one or more lot lines between one or more adjacent lots if:
 - (A) the owners of all those lots join in the application for amending the plat;
 - (B) the amendment does not attempt to remove recorded covenants or restrictions; and
 - (C) the amendment does not increase the number of lots; or
 - (10) to make necessary changes to the preceding plat to create six or fewer lots in the subdivision or a part of the subdivision covered by the preceding plat if:
 - (A) the changes do not affect applicable zoning and other regulations of the municipality;
 - (B) the changes do not attempt to amend or remove any covenants or restrictions; and
 - (C) the area covered by the changes is located in an area that the planning commission has approved, after a public hearing, as a residential improvement area.
- (b) Notice, a hearing, and the approval of other lot owners are not required for the approval and issuance of an amending plat.
 - (c) An amending plat does not require the approval of the Drainage Commission.
 - (d) The provisions of this section shall be applicable only to those areas of the City which are, or may hereafter be, zoned as R-1, R-2, R-3, R-4, or MF."

Section 2. All rights and remedies which have accrued in the favor of the City under its Subdivision Ordinance, and amendments thereto, shall be and are preserved for the benefit of the City.

Section 3. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance, is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

Section 4. This Ordinance shall become effective upon passage of Second Reading.

PASSED and APPROVED on First Reading this 27 day of May, A. D., 1992.


C. V. COPPINGER
MAYOR

ATTEST:


PAT JONES
CITY SECRETARY

PASSED and APPROVED on Second and Final Reading this 8 day of June, A. D., 1992.


C. V. COPPINGER
MAYOR

ATTEST:


PAT JONES
CITY SECRETARY

APPROVED AS TO FORM:


LESTER G. RORICK
CITY ATTORNEY

§ 212.013

MUNICIPAL REGULATORY AUTHORITY

Note 3

Title 7

subdivision cannot be amended to reflect that conveyance; it must be vacated and replatted pursuant to this article. Op.Atty.Gen.1980, No. MW-269.

§ 212.014. Replatting Without Vacating Preceding Plat

A replat of a subdivision or part of a subdivision may be recorded and is controlling over the preceding plat without vacation of that plat if the replat:

- (1) is signed and acknowledged by only the owners of the property being replatted;
- (2) is approved, after a public hearing on the matter at which parties in interest and citizens have an opportunity to be heard, by the municipal authority responsible for approving plats; and
- (3) does not attempt to amend or remove any covenants or restrictions.

Acts 1987, 70th Leg., ch. 149, § 1, eff. Sept. 1, 1987.

Revisor's Note

- (1) The source law refers to a "replat or resubdivision." The reference to "resubdivision" is omitted from the revised law because that term is included within the meaning of "replat."
- (2) The revised law substitutes "preceding" for "immediate previous" because the terminology is synonymous and the former is more commonly used.
- (3) The source law refers to a recorded replat as being "valid and controlling." The reference to "valid" is omitted from the revised law because that term is included within the meaning of "controlling."
- (4) The source law refers to an attempt to "alter, amend or remove" covenants or restrictions. The reference to "alter" is omitted from the revised law because that term is included within the meaning of "amend."
- (5) The source law contains cross-references to other provisions of the source law. The cross-references are omitted from the revised law because Sections 212.013, 212.015, and 212.016 are drafted to reflect the substance of the cross-references.

Historical Note

Prior Law: Acts 1927, 40th Leg., p. 342, ch. 231. Acts 1981, 67th Leg., p. 149, ch. 67, § 1. Acts 1983, 68th Leg., p. 5283, ch. 971, § 1. Vernon's Ann.Civ.St. art. 974a, § 5(b).

Notes of Decisions

Injunction 2
Zoning ordinances 1

nance which required house to face the street on which is located the shortest lot line. *Head v. City of Shoreacres* (Civ.App.1966) 401 S.W. 2d 703, ref. n.r.e.

1. Zoning ordinances

Plaintiff was properly denied permit to construct a building where alleged replatting of lot by plaintiff's predecessor in title was a nullity because it did not have city's approval and plaintiff's proposed building, in the absence of replatting, did not conform to zoning ordi-

2. Injunction

Landowners who obtained temporary injunction prohibiting city from replatting developer's land did not waive right to complain of developer's lack of standing to challenge Vernon's Ann.Civ.St. art. 974a (repealed; see, now, this section) by failing to bring it to trial

SUBDIVISION & PROPERTY DEVELOPMENT
Ch. 212

§ 212.015

court's attention, since public interest was directly affected in the challenge to said section. *Kircus v. London* (App. 3 Dist.1983) 660 S.W.2d 869.

§ 212.015. Additional Requirements for Certain Replats

(a) In addition to compliance with Section 212.014, a replat without vacation of the preceding plat must conform to the requirements of this section if:

(1) during the preceding five years, any of the area to be replatted was limited by an interim or permanent zoning classification to residential use for not more than two residential units per lot; or

(2) any lot in the preceding plat was limited by deed restrictions to residential use for not more than two residential units per lot.

(b) Notice of the hearing required under Section 212.014 shall be given before the 15th day before the date of the hearing by publication in an official newspaper or a newspaper of general circulation in the county in which the municipality is located and by written notice, with a copy of Subsection (c) attached, forwarded by the municipal authority responsible for approving plats to the owners, as indicated on the most recently approved ad valorem tax roll of the municipality's governing body, of all lots in the preceding plat. The written notice may be delivered by depositing the notice, properly addressed with postage prepaid, in a post office or postal depository within the boundaries of the municipality. If the preceding plat contains more than 100 lots, the written notice shall be mailed only to the owners of lots located within 500 feet of the lots to be replatted.

(c) If 20 percent or more of the owners to whom notice is required to be given under Subsection (b) file with the municipal authority responsible for approving plats a written protest of the replatting before or at the hearing, the municipal authority shall require for the replatting the written approval of at least $66\frac{2}{3}$ percent of the owners of all lots in the preceding plat or of the owners of lots located within 500 feet of the lots to be replatted if the preceding plat contains more than 100 lots. In computing percentages of ownership, each lot is considered equal to all other lots regardless of size or number of owners, and the owners of each lot are entitled to cast only one vote per lot.

(d) Compliance with Subsections (b) and (c) is not required for approval of a replat of part of a preceding plat if the area to be replatted was designated or reserved for other than single or duplex family residential use by notation on the last legally recorded plat or in the legally recorded restrictions applicable to the plat.

Acts 1987, 70th Leg., ch. 149, § 1, eff. Sept. 1, 1987.

Revisor's Note

(1) The source law refers to "resubdivision or replatting." The reference to "resubdivision" is omitted from the revised law because that term is included within the meaning of "replatting."

(2) The revised law substitutes "preceding" for "immediate previous" because the terminology is synonymous and the former is more commonly used.

§ 212.015

MUNICIPAL REGULATORY AUTHORITY Title 7

The revised law omits "immediate" from "immediate preceding" because the term is redundant.

Historical Note

Prior Law:

Acts 1927, 40th Leg., p. 342, ch. 231.
Acts 1981, 67th Leg., p. 149, ch. 67, § 1.

Acts 1983, 68th Leg., p. 5283, ch. 971, § 1.
Vernon's Ann.Civ.St. art. 974a, § 5(c).

Library References

Zoning and Planning ⇨471.5.
C.J.S. Zoning and Land Planning § 224.

Notes of Decisions

Notice and hearing 1

1. Notice and hearing

Developer's challenge to notice and hearing provisions of Vernon's Ann.Civ.St. art. 974a

(repealed; see, now, this section) as unconstitutionally vague, overbroad, indefinite, and uncertain was not ripe for review, since developer could show only possible future harm from application of said section. *Kircus v. London* (App. 3 Dist.1983) 660 S.W.2d 869.

§ 212.016. Amending Plat

See, also, italicized material following text of this section

(a) The municipal authority responsible for approving plats may approve and issue an amending plat, which may be recorded and is controlling over the preceding plat without vacation of that plat, if the amending plat is signed by the applicants only and the sole purpose of the amending plat is to:

- (1) correct an error in a course or distance shown on the preceding plat;
- (2) add a course or distance that was omitted on the preceding plat;
- (3) correct an error in a real property description shown on the preceding plat;

(4) indicate monuments set after the death, disability, or retirement from practice of the engineer or surveyor responsible for setting monuments;

(5) show the location or character of a monument that has been changed in location or character or that is shown incorrectly as to location or character on the preceding plat;

(6) correct any other type of scrivener or clerical error or omission previously approved by the municipal authority responsible for approving plats, including lot numbers, acreage, street names, and identification of adjacent recorded plats;

(7) correct an error in courses and distances of lot lines between two adjacent lots if:

- (A) both lot owners join in the application for amending the plat;
- (B) neither lot is abolished;
- (C) the amendment does not attempt to remove recorded covenants or restrictions; and

g" because the
5283, ch. 971, § 1.
1. 974a, § 5(c).

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1. Kircus v. London
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- (D) the amendment does not have a material adverse effect on the property rights of the other owners in the plat;
- (8) relocate a lot line to eliminate an inadvertent encroachment of a building or other improvement on a lot line or easement; or
- (9) relocate one or more lot lines between one or more adjacent lots if:
 - (A) the owners of all those lots join in the application for amending the plat;
 - (B) the amendment does not attempt to remove recorded covenants or restrictions; and
 - (C) the amendment does not increase the number of lots.

(b) Notice, a hearing, and the approval of other lot owners are not required for the approval and issuance of an amending plat.

Acts 1987, 70th Leg., ch. 149, § 1, eff. Sept. 1, 1987.

Amendment by Acts 1987, 70th Leg., ch. 1102, § 2

V.T.C.A. Government Code, § 311.031(c) provides, in part, that the repeal of a statute by a code does not affect an amendment of the statute by the same legislature which enacted the code and that the amendment is preserved and given effect as part of the code provision.

Section 2 of Acts 1987, 70th Leg., ch. 1102, amends subsection (d) of § 5 of Vernon's Ann.Civ.St. art. 974a [now, this section] without reference to the repeal of said article by Acts 1987, 70th Leg., ch. 149, § 49(1). As so amended, § 5(d) reads:

"Notwithstanding any other provision of this section, the City Planning Commission or other appropriate governing body of a city is authorized to approve and issue an amending plat which is signed by the applicants only, and which is for one or more of the purposes set forth in this subsection, and such approval and issuance shall not require notice, hearing, or approval of other lot owners. This subsection shall apply only if the sole purpose of the amending plat is:

- "(1) to correct an error in any course or distance shown on the prior plat;*
- "(2) to add any course or distance that was omitted on the prior plat;*
- "(3) to correct an error in the description of the real property shown on the prior plat;*
- "(4) to indicate monuments set after death, disability, or retirement from practice of the engineer or surveyor charged with responsibilities for setting monuments;*
- "(5) to show the proper location or character of any monument which has been changed in location or character or which originally was shown at the wrong location or incorrectly as to its character on the prior plat;*

"(6) to correct any other type of scrivener or clerical error or omission as previously approved by the City Planning Commission or governing body of such city; such errors and omissions may include, but are not limited to, lot numbers, acreage, street names, and identification of adjacent recorded plats;

"(7) to correct an error in courses and distances of lot lines between two adjacent lots where both lot owners join in the application for plat amendment and neither lot is abolished, provided that such amendment does not attempt to remove recorded covenants or restrictions and does not have a material adverse effect on the property rights of the other owners in the plat;

"(8) to relocate a lot line in order to cure an inadvertent encroachment of a building or improvement on a lot line or on an easement;

"(9) to relocate one or more lot lines between one or more adjacent lots where the owner or owners of all such lots join in the application for the plat amendment, provided that such amendment does not:

"(A) attempt to remove recorded covenants or restrictions; or

"(B) increase the number of lots; or

"(10) to make necessary changes to the prior plat to create six or fewer lots in the subdivision or a part of the subdivision covered by the prior plat if:

"(A) the changes do not affect applicable zoning and other regulations of the city;

"(B) the changes do not attempt to amend or remove any covenants or restrictions; and

"(C) the area covered by the changes is located in an area that the City Planning Commission or other appropriate governing body of the city has approved, after a public hearing, as a residential improvement area."

Revisor's Note

Although Subsection (b) of Section 5 of V.A.C.S. Article 974a of the source law does not refer specifically to amending plats, the cross-reference in that subsection to Subsection (d) of Section 5 within the context of the section as a whole seems to extend to an amending plat the concept that the plat may be recorded and is controlling over the preceding plat without vacation of the preceding plat. For Subsection (d) to operate without this construction would be illogical. The revised law is drafted accordingly.

Historical Note

Prior Law:

Acts 1927, 40th Leg., p. 342, ch. 231.

Acts 1981, 67th Leg., p. 149, ch. 67, § 1.

Acts 1983, 68th Leg., p. 5283, ch. 971, § 1.
Vernon's Ann.Civ.St. art. 974a, § 5(a), (d).

AGENDA - WORKSHOP OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF PEARLAND, TEXAS TO BE HELD TUESDAY, SEPTEMBER 1, 1992, IMMEDIATELY FOLLOWING THE REGULAR MEETING, IN THE COUNCIL CHAMBERS, CITY HALL, 3519 LIBERTY DRIVE, PEARLAND, TEXAS

I. CALL TO ORDER

II. NEW BUSINESS

1. Review of Plats:

- a. Amended/Amending plat
- b. Replatting
- c. Preliminary/Final plat

2. Review of Rules of Procedure for the Planning and Zoning Commission

III. ADJOURN

POSTED: 28TH DAY OF August, A.D., 1992 5:00 P.M.

REMOVED: 1ST DAY OF September, A.D.