



## Legislation Details (With Text)

<b>File #:</b>	19-290	<b>Version:</b>	1
<b>Type:</b>	New Business	<b>Status:</b>	Agenda Ready
<b>File created:</b>	6/5/2019	<b>In control:</b>	Planning & Zoning Commission
<b>On agenda:</b>	6/10/2019	<b>Final action:</b>	
<b>Title:</b>	Consider a request for the approval of an amendment to the Tree Preservation Plan to the City of Keller Unified Development Code (UDC), Article 8, Zoning Districts, Development Standards, and Tree Preservation, Section 8.19, Tree and Natural Feature Preservation to allow advanced tree removal and lot grading for residential Lots 17-19, 2-3 Block G; Lots 19-21 & 23, Block D of Marshall Ridge Phase 1 South, a residential development consisting of 47 residential lots and 3 open space lots, located on approximately 25.166 acres of land, on the south side of Ridge Point Parkway, approximately 1,790 feet east of the North Main Street (U.S. HWY 377) and Ridge Point Parkway Intersection, and zoned Planned Development - Single Family Residential-15,000 square foot minimum (PD-SF-15). Meritage Homes of Texas, LLC, owner/applicant. (TB-18-0002).		
<b>Attachments:</b>	1. 061019_MRPIS_Map, 2. 061019_MRPIS_ExhibitA_TreeSurvey&MitigationPlan, 3. 061019_MRPIS_Exhibit_TreeMitigation, 4. 061019_MRPIS_Exhibit_Grading&ErosionControlPlans, 5. 061019_MRPIS_MarshallRidgePhaseISouthFinalPlat, 6. 061019_MRPIS_StaffAttachment_MarshallRidgePhaseISouthApprovedplans		

Date	Ver.	Action By	Action	Result
6/10/2019	1	Planning & Zoning Commission	deny	Pass

**To:** Planning and Zoning Commission

**From:** Katasha Smithers, Planner I

### Subject:

Consider a request for the approval of an amendment to the Tree Preservation Plan to the City of Keller Unified Development Code (UDC), Article 8, Zoning Districts, Development Standards, and Tree Preservation, Section 8.19, Tree and Natural Feature Preservation to allow advanced tree removal and lot grading for residential Lots 17-19, 2-3 Block G; Lots 19-21 & 23, Block D of Marshall Ridge Phase 1 South, a residential development consisting of 47 residential lots and 3 open space lots, located on approximately 25.166 acres of land, on the south side of Ridge Point Parkway, approximately 1,790 feet east of the North Main Street (U.S. HWY 377) and Ridge Point Parkway Intersection, and zoned Planned Development - Single Family Residential-15,000 square foot minimum (PD-SF-15). Meritage Homes of Texas, LLC, owner/applicant. (TB-18-0002)

### Background:

The Planning and Zoning Commission approved the final plat for Marshall Ridge Phase I South consisting of 47 residential lots and 3 open space lots on February 26, 2007.

The Appeal to the Tree Board (TB-14-0001) approved the preliminary grading for the 47 residential lots and 3 open space lots in preparation of single-family residences on May 12, 2014. In turn, Marshall Ridge Phase I South was able to do advanced tree removal and grading prior to the construction of homes.

**Marshall Ridge Phase I South Request:**

The applicant requests to remove trees from Lots 17-19, 2-3 Block G; Lots 19-21 & 23, Block D of Marshall Ridge Phase 1 South to perform additional lot grading and additional tree removal to begin construction of homes on the remaining 9 lots.

The applicant submitted an amended Tree Preservation Plan that shows trees which are being preserved and removed. (See Exhibit A.) Trees to be removed are classified into two categories: exempt from mitigation (those in rights of-way, easements, and building pads) and non-exempt from mitigation. Specifically the applicant is requesting to grade the remaining 9 lots, build retaining walls, and remove 62 trees equaling 421 caliper inches to create “buildable” lots.

The developer is proposing to mitigate 73 caliper inches on the remaining 9 lots. Furthermore, an error caught while reviewing the past Appeal to the former Tree Board resulted in a 60-caliper-inch bank credit. The applicant is proposing to pay \$43,200 into the Tree Reforestation Fund for the remaining 288 caliper inches that must be mitigated.

Please see the table below for the tree planting summary.

MARSHALL RIDGE - PHASE 1 SOUTH - TREE PLANTING SUMMARY						
LOT	BLOCK	NO. OF 3" TREES PER THE APPROVED TREE MITIGATION PLAN DATED 5/21/2014	NO. OF 3" TREES PER THIS PLAN	NET NO. OF 3" TREES PER THIS PLAN	NO. OF 4" TREES PER THIS PLAN	ADDITIONAL NO. OF INCHES TO BE PLANTED PER THIS PLAN
		A	B	C = (B - A)	D	E = (C*3) + D*4
19	D	2	2	0	3	12
20	D	4	2	-2	3	6
21	D	3	2	-1	2	5
23	D	3	2	-1	3	9
2	G	2	0	-2	2	2
3	G	2	0	-2	4	10
17	G	5	5	0	4	16
18	G	4	3	-1	2	5
19	G	3	3	0	2	8
TOTALS		28	19	-9	25	73

MITIGATION SUMMARY	
NO. OF INCHES OF TREES TO BE REMOVED WITH HOME CONSTRUCTION - REQUIRING MITIGATION	421
ADDITIONAL NO. OF INCHES OF TREES TO BE PLANTED PER THIS PLAN	73.0
MITIGATION BANK CREDIT FROM PREVIOUSLY APPROVED TREE MITIGATION PLAN DATED 5/21/2014	60
REMAINING INCHES TO BE MITIGATED WITH FEE PAYMENT	288.0

**Tree Preservation Regulations:**

- Protected quality trees are defined by the UDC as a tree that has a diameter of three inches (3") or greater measured at eighteen inches (18") above the ground. Tree types that are considered protected trees per the UDC are Oak (all species), Pecan, Cedar Elm, American Elm, Texas Hickory, Texas Ash, Red Cedar, and Black Walnut.
- Section 8.19 (C.1.e) states, "In cases of severe drainage issues related to the site, the City Staff and/or the developer may request from the Commission to perform lot grading and pad site preparation in conjunction with or following the clearing of rights-of-way and easements but prior to the issuance of building permit(s). In order for the Commission to consider the request for pad site grading in advance of issuance of a building permit, a tree survey as defined in Article Three, an erosion control plan including erosion control seeded mat placement and a tree removal plan shall be submitted. The erosion control mat shall be placed over all graded areas to remain unimproved for more than five (5) calendar days post grading. The tree removal plan shall reflect the areas for proposed tree removal necessary to provide for a finished

pad site and a minimum finished floor elevation of the slab. The proposed pad site shall not exceed the maximum pad site area as defined in this Code. The Commission makes recommendation to the City Council that they grant permission for trees in other areas such as proposed ponds, amenity center, etc., to be removed at the time of right-of-way clearing, however the tree removal in these areas shall be mitigated in accordance with this Code. City Council may consider granting the request for advance lot grading shall be final. The decision of the City Council is final.”

- Section 8.19 (I.1) of the UDC states, “In the event that it is necessary to remove a protected tree as specified in this Code, the party removing the tree shall be required to replace the protected trees being removed with quality trees as defined herein (see Section 8.20 - Exhibit I). A sufficient number of trees shall be planted to equal or exceed the diameter (measured at eighteen inches (18”) above ground level of each tree removed. This mitigative measure is not meant to supplant good site planning. Tree replacement will be considered only after all design alternatives, which could save more existing trees, have been evaluated and reasonably rejected. Said replacement trees shall be a minimum of three-inch (3”) diameter (measured at eighteen inches [18”] above ground) and seven feet (7’) in height when planted.”
- Section 8.19 (I.2) of the UDC states, “...The replacement trees shall be located on the same property that trees were removed whenever possible. However, if this is not feasible, they may be placed on a designated property as agreed to by the Planning and Zoning Commission. If the Planning and Zoning Commission approves the planting of replacement trees more than thirty (30) days after the removal of protected trees, the applicant shall provide the Community Development Department with an affidavit that all replacement trees will be planted within six (6) months. A replacement tree that dies within two (2) years of the date it was planted must be replaced by another replacement tree in compliance with this Code.”
- Section 8.19 (I.3) states, “The applicant may request from the Planning and Zoning Commission for recommendation to the City Council to make a payment into the Tree Reforestation Fund in lieu of planting the replacement trees if planting is not feasible. The funds shall be used only for purchasing and planting trees on public property or acquiring wooded property that shall remain in a naturalistic state in perpetuity. The fee payment amount shall be established in the City’s Fee Schedule. The schedule may be periodically updated by the City without changing this Code. *(Amended by Ord. No. 1818 on October 18, 2016)*”
- The payment amount for the Tree Reforestation Fund in lieu of mitigation is set by the International Society of Arboriculture which sets the average cost of quality trees and the cost of planting a tree. The current fee is set at \$150.00 per caliper inch.

### **Alternatives:**

The Commission has the following options when considering this appeal to the UDC Tree Preservation requirements:

1. Recommend approval of the Tree Plan as presented with the additional planting, upsizing of required trees in the residential lots, and pay \$43,200 into the Tree Fund.

2. Recommend approval of the Tree Plan with amendments or modifications that would meet the mitigation requirement of 288 caliper-inches.
3. Tabling the agenda item to a specific date with clarification of intent and purpose.
4. Recommend denial. (The Commission would need to articulate the UDC basis for the denial.)

If the Commission makes a recommendation to City Council for the appeal request, the request will be scheduled for City Council consideration and possible action on July 2, 2019.