



City of Keller

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Legislation Text

File #: 19-167, **Version:** 1

To: Mark Hafner, City Manager

From: Scott Bradburn, Planner I

Subject:

Consider a resolution for the approval of an appeal to the City of Keller Unified Development Code, 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 13-32, Block B; Lots 8-14, Block F; Lots 1-14, Block G, and one open space lot of Gean Estates Phase 3, a residential development consisting of forty-one (41) residential lots and two (2) open space lots, located on approximately 40.73 acres of land, on the south side of Bancroft Road, approximately 2,550 feet east of the Bancroft and Bourland Road Intersection, at 740 Bancroft Road, and zoned Single Family Residential-36,000 square foot minimum (SF-36). Kyle Dickerson, Lennar Homes of Texas Land and Construction, owner/applicant. LJA Engineering, Inc., Engineer. (TB-18-0001)

Action Requested:

Consider a resolution for the approval of an appeal to the City of Keller Unified Development Code, Article 8, Zoning Districts, Development Standards, and Tree Preservation, Section 8.19, Tree and Natural Feature Preservation to allow advanced tree removal and grading. No public hearing is required for this request.

Property Description:

Located on approximately 40.73 acres of land, on the south side of Bancroft Road, approximately 2,550 feet east of the Bancroft and Bourland Road Intersection, at 740 Bancroft Road.

Background:

The Planning and Zoning Commission ("Commission") approved the Preliminary Plat for Gean Estates on December 8, 2014. The Preliminary Plat provided a layout for a residential neighborhood consisting of 104 residential lots, seven open space lots, and one amenity center lot to be developed in three phases.

A Final Plat for Gean Estates Phase 1 (consisting of 37 residential lots, six open space lots and one amenity center lot) was approved by the Commission on April 27, 2015. Some of the mitigation for Phase 1 resulted in "banking" surplus caliper-inches. Phase 1 is nearly completed.

A Final Plat for Gean Estates Phase 2 (consisting of 26 residential lots and one open space lot) was approved by the Commission on February 22, 2016. Phase 2 used some - but not all - of the banked caliper-inches from Phase 1 to meet the mitigation requirements (detailed, below). Phase 2 will begin

construction once the landscape screening wall and irrigation is installed and approved.

A Final Plat for Gean Estates Phase 3 (consisting of 41 residential lots and two open space lots) was approved by the Commission on May 22, 2017. (See Attachment A, Final Plat Phase 3.) Construction plans for Gean Estates Phase 3 were approved on November 15, 2018.

Gean Estates Phase 1 & 2 Tree Appeal and Tree Bank

The Gean Estates Phase 2 Tree Appeal, approved by City Council on May 17, 2016 (Resolution No. 3759), allowed the advanced grading and tree removal for 14 of the 26 lots and one open space. The approval required a total of 558.6 caliper-inches of mitigation. The applicant provided 448 caliper inches worth of trees towards mitigation. The remaining amount of 110.6 caliper inches was credited from the mitigation bank from Gean Estates Phase 1. After Phase 2, the mitigation bank contains 100.4 inches

Gean Estates Phase 3 Request:

The applicant requests to remove trees from 40 of the 41 residential lots and from one of the two open space lots in Phase 3 to perform advanced lot grading. The applicant submitted a Tree Survey, Mitigation and Protection Plan (Tree Plan) that shows trees which are being preserved and removed. (See Attachment B, Tree Plan.) 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.

The Tree Plan shows a building pad for each residential lot measuring approximately 80 feet by 90 feet. This pad area will allow for the home foundation, porches, patios, and any required foundation treatments that may be required based on geotechnical reports. The applicant has looked at each lot individually, counted trees within the pad area as exempt and included the additional 20% of remaining quality trees as exempt (per the City's Tree Ordinance). However, the applicant is requesting to remove 648 healthy trees that are not exempt - not in the building pads, easements, or rights-of-way. These trees are all subject to mitigation. The total mitigation required for Phase 3 of Gean Estates is 2,250.4 caliper inches.

Residential Tree Removal Regulations & Tree Survey:

Protected quality trees are defined by the UDC as a tree that has a diameter of six inches (6") or greater measured at four and one-half feet (4.5') 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 permits. 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". Because the applicant is removing trees on the one open space lot that will need to be mitigated, this Code provision is relevant

Tree Replacement Regulations:

Section 8.19 (I.1) of the UDC states that if a protected tree is removed, the party removing the tree shall be required to replace the protected trees being removed with quality trees. A sufficient number of trees shall be planted to equal or exceed the number of caliper inches of each tree removed. Said replacement trees shall be a minimum of three caliper inches (3") 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."

Section 8.19 (I.3) allows an applicant to make a request to make a payment in lieu of planting replacement trees into the Tree Reforestation Fund. The fund is only to be used for purchasing and planting trees on public property or acquiring wooded property that shall remain in a natural state in perpetuity. The payment amount 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 rate is set at \$150.00 per caliper inch.

Analysis:

The request for this appeal is based on the applicant's desire for advanced tree removal within all but one lot for Gean Estates, Phase 3. The applicant also included the trees within the rights-of-way with this application. (Removal of the trees within the rights-of-way and easements are exempt from mitigation requirements.)

If the appeal is approved, the applicant intends to submit a grading plan which will address tree removal and grading for the rights-of-way, easements, and residential lots at the same time.

The developer is proposing to mitigate the 2,250.4 caliper-inches by planting additional trees in the residential lots, upsizing the required tree plantings, and using the remainder of the mitigation bank (100.4 caliper-inches).

Upsizing Trees in Residential Lots: The two required trees to be installed in the front yards of each lot will be upsized from three caliper inches to five caliper inches. Corner lots will have the two required trees in the side yard also upsized from three to five caliper inches. This method would produce a total of 200 caliper-inches for mitigation. If the developer opted to plant additional trees instead, this would be equivalent of 66, three-inch-caliper trees.

Additional Planting in Residential Lots: Each residential lot will have two additional five-inch-caliper trees in the front yards and each corner lot will have two additional five-inch-caliper trees installed in the side yard. The additional tree planting would provide a total of 500 caliper inches towards mitigation.

Utilizing the Mitigation Bank: The applicant proposes applying the 100.4 caliper inches left in the mitigation bank from Phases 1 and 2 towards the deficit for Gean Estates Phase 3.

A table that provides a breakdown on the mitigation proposed by the applicant is included. (See attachment 'C')

Tree Plan:

The Phase 3 Tree Plan illustrates which trees are proposed to be preserved or removed due to the grading of the lots. Trees which are within the rights-of-way and easements are exempt from mitigation and are marked **red**, and trees within the building pads are marked with **light red**; Trees proposed to be removed but are subject to mitigation are marked in **orange**. Trees that are planned to be preserved are shown in **green**.

A summary table has been included below showing the mitigation required per lot.

Summary Table - 41 Residential Lots & Open Space Lots (See attachment 'D')

The trees within Lot 106, Block B will be removed in order to make room for a Hike and Bike Trail Easement. Because of this easement, trees in Lot 106, Block B are exempt from mitigation.

Mitigation Plan:

Similar to the requirements of the Phase 2 Tree Preservation Plan - and if the appeal for Phase 3 is granted - staff would inspect the tree fencing and tree tags prior to construction. Once staff confirmed that the fencing and tags mirrored the Tree Plan, staff would approve the inspection and the applicant would be able to proceed with the removal of trees.

The applicant proposes to offset the remaining 1,450.4 caliper-inches requiring mitigation by paying the required fee into the Tree Mitigation Bank - \$217,500.

If this Appeal is approved with the above conditions, Staff will prepare a Memo of Understanding to clearly state the requirements for the tree mitigation for the Phase 3 Construction plans and the Developer's Agreement.

Thoroughfare Screening Requirements:

Bancroft Road is listed as a thoroughfare in the City of Keller Comprehensive Thoroughfare Plan and will require screening. The screening wall From Gean Estates Phase 2 adjacent to Bancroft Road will continue through Phase 3. The Landscaping will be contained within a ten foot-wide open space and will have three-caliper-inch trees spaced every 25'. There are quality trees which exist within this ten-foot wide open space which are greater than three caliper inches. If any of these quality trees fall within the required spacing, these trees will be saved and used to meet the requirement.

Rights-of-Way and Easements:

Tree removal from the rights-of-way and easements are exempt from mitigation. The tree survey included protected trees within the rights-of-way and easements. There will be 387 trees measuring 4,023.5 caliper inches being removed from the rights-of-way and easements.

Alternatives:

City Council 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, applying the remaining 100.4 banked caliper-inches from Phase 1 and 2, paying \$217,500 into the Tree Reforestation Fund, escrowing \$105,000 with

the City to be refunded at the final approval of the 41st developed lot/home or when the final trees required by the Tree Mitigation Plan are planted.

2. Recommend approval of the Tree Plan with amendments or modifications that would meet the mitigation requirement of 2,250.4 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.)

Staff Analysis:

The mitigation plan meets UDC requirements.

Board Decisions:

The Planning and Zoning Commission met on March 25, 2019 and voted unanimously to recommended approval of the Gean Estates Phase 3 Tree Mitigation Plan with additional modifications.