

February 5, 2015

**Planning Exception case no. PE15-01: Porter's Meadow Subdivision**

**CASE DESCRIPTION:** a request for approval of an exception from standards for subdivision design of the Subdivision Ordinance (Bryan Code of Ordinances Chapter 110) which generally prohibit other utilities to be located within a public drainage easement, to allow the installation of a storm sewer line in an area that is encumbered by a public utility easement and within which a public water line is located

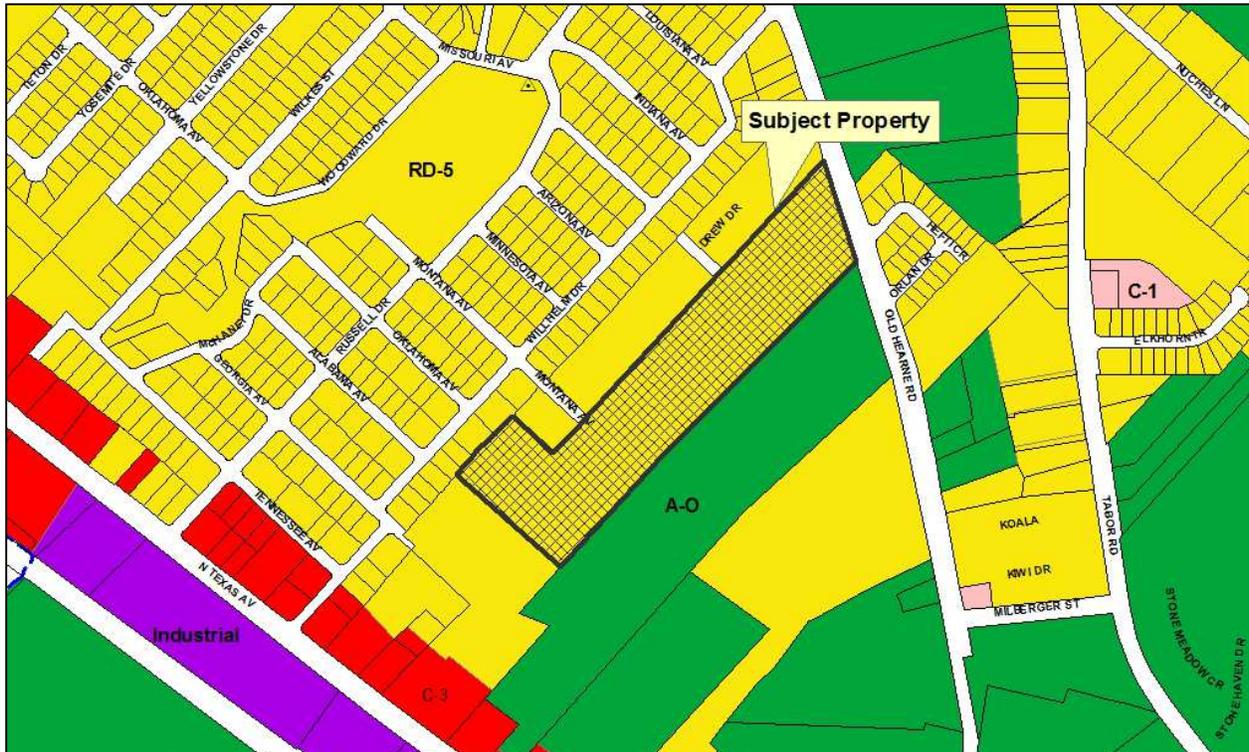
**LOCATION:** a 20-foot wide strip of land that generally extends along the northwestern boundary of a 19.517-acre tract (proposed Porter's Meadow Subdivision) that adjoins the west side of the 2700 block of Old Hearne Road between Wilhelm and Orlan Drives

**APPLICANT(S):** SMH Homes LLC, Dr. Syed Hyder

**AGENT:** J4 Engineering, Glenn Jones

**STAFF CONTACT:** Randy Haynes, Senior Planner

**SUMMARY RECOMMENDATION:** Staff recommends **approving** the requested exception.



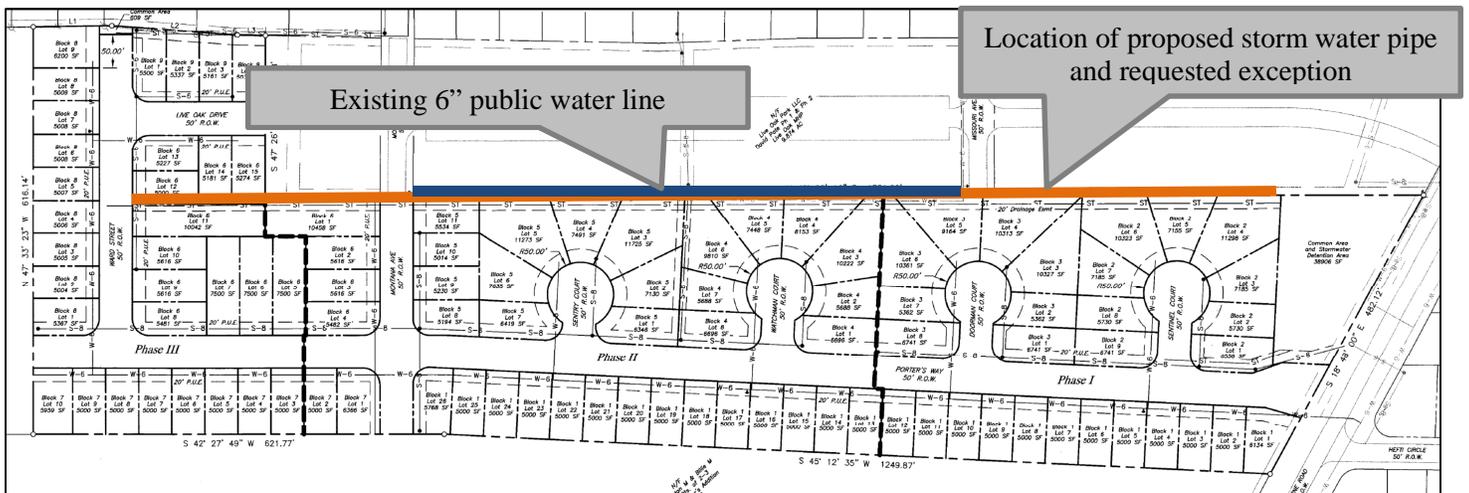


**BACKGROUND:**

The applicant/property owner, Dr. Syed Hyder, is requesting an exception to the design standards for subdivisions included in the Subdivision Ordinance (Bryan Code of Ordinances Section 110). The request is specifically for an exception to Section 110-59(d)(1) of the Subdivision Ordinance, which specifies that within public drainage easements no other utilities shall be allowed:

*Drainage easements.* Drainage easements may be required where a watercourse, drainageway, underground drainage pipe, natural channel or stream traverses a subdivision. No construction, including fences, shall impede, constrict, or block the flow of water in any easement or natural watercourse. Such easement shall not be considered a part of the lot area for purposes of minimum lot size requirements of the zoning ordinance. No other utilities will be allowed within a drainage easement.

The request was made in order to allow for the proposed subdivision of 19.517 acres of currently vacant land on the west side of the 2700 block of Old Hearne Road between Wilhelm and Orlan Drives, into a new residential subdivision (referred to as Porter’s Meadow Subdivision). If approved, the exception would allow the installation of a storm sewer line in a 20-foot wide area along the northwestern boundary of this property, 10 feet of which is already encumbered by a public utility easement and within which a public water line is located.



**ANALYSIS:**

The Planning and Zoning Commission may authorize exceptions from standards of the Subdivision Ordinance. The Planning and Zoning Commission may authorize such exceptions when, in its opinion, compliance would not be in the public interest. In granting an exception, the Planning and Zoning Commission shall prescribe only conditions that it deems necessary or desirable in the public interest.

In making its findings, the Planning and Zoning Commission shall take into account the nature of the proposed use of the land involved, existing uses of land in the vicinity, the number of persons who will reside or work in the proposed subdivision, and the probable effect of such exception upon traffic conditions and upon the public health, safety, convenience, and welfare in the vicinity.

No exception shall be granted unless the Planning and Zoning Commission finds:

1. That there are special circumstances or conditions affecting the land involved such that the strict application of the provisions of the standards would deprive the applicant of the reasonable use of the land.

**In 1979-80, upon development of the Live Oak Mobile Home Park along Drew Drive, west of Old Hearne Road, a public water line was installed along the common property line between that development and the property which is the subject of this request. A public utility easement that extends 10 feet into the subject property of this request was dedicated to the public at that time.**

**Due to the existing topography of the land, the same narrow area where the aforementioned public water line is located also provides the most efficient path for installation of a storm sewer line. That storm sewer line is designed to help drain the storm water from the new 100-lot subdivision that is proposed on the subject property. The prohibition of drainage and public utility easements located in common space is primarily to prevent damage to above-ground utility equipment such as power poles, gas meters and items just sub-surface such as water meters. In this particular case, the storm water drainage is planned to be conveyed via a below-ground concrete pipe, eliminating the danger to other utilities.**

**Staff contends that, in this particular case, the strict application of the subdivision design standard that prohibits co-location of other utilities in drainage easements will deprive the applicant of reasonable use of his property while producing no measurable public benefit.**

2. That the exception is necessary for the preservation and enjoyment of the property.

**Without approval of the requested exception, the technical challenge of providing for adequate storm water drainage for the proposed 100-lot subdivision will be made unnecessarily complicated, resulting in increased long-term maintenance effort. Approval of the requested planning exception will allow for the low-density residential infill development on this 19.5-acre tract.**

3. That the granting of the exception will not be detrimental to the public health, safety, or welfare, or injurious to other property in the area.

**Staff believes that granting the exception will not be detrimental to the public health, safety, or welfare, or injurious to other property in the area. Allowing for the installation of drainage facilities in an existing utility easement is more efficient and maximizes the use of the easement.**

4. That the granting of the exception will not have the effect of preventing the orderly subdivision of adjoining land in the vicinity in accordance with the provisions of this Ordinance.

**Staff believes granting of the exception will not have the effect of preventing the orderly subdivision of adjoining land in the vicinity in accordance with the provisions of the Subdivision Ordinance. In this particular case, the storm water drainage is proposed to be conveyed via a below-ground concrete pipe, eliminating the danger to other utilities.**

#### **RECOMMENDATION:**

Staff recommends **approving** the requested exception.