

**OFFICE OF THE CITY MANAGER
LITTLE ROCK, ARKANSAS**

**BOARD OF DIRECTORS COMMUNICATION
JULY 19, 2016 AGENDA**

Subject:	Action Required:	Approved By:
<p>An ordinance waiving the right-of-way dedication provisions of Section 1 of the Master Street Plan for the property located at #1 Mallard Point Cove in connection with a Conditional Use Permit for an accessory dwelling. (Z-9114-A)</p> <p>Submitted By:</p> <p>Planning & Development Department and Public Works Department</p>	<p style="text-align: center;">√ Ordinance Resolution Approval Information Report</p>	<p style="text-align: center;">Bruce T. Moore City Manager</p>
<p style="text-align: center;">SYNOPSIS</p> <p style="text-align: center;">FISCAL IMPACT</p> <p style="text-align: center;">RECOMMENDATION</p> <p style="text-align: center;">BACKGROUND</p>	<p>The owner of the property located at #1 Mallard Point is requesting a waiver of the right-of-way dedication provisions of the Master Street Plan in connection with a Conditional Use Permit for an accessory dwelling.</p> <p>Failure to acquire the right-of-way through this process will likely result in the public having to purchase the right-of-way at a future date.</p> <p>Staff recommends denial of the waiver request. The Planning Commission, on June 2, 2016, voted 5 ayes, 5 nays and 1 absent on the waiver request, resulting in denial of the motion.</p> <p>On March 10, 2016, the Planning Commission approved a CUP, Conditional Use Permit, to allow for the construction of an accessory dwelling on the R-2, Single-Family District, zoned, 5± acre tract located at #1 Mallard Point Cove. One of the conditions of approval was compliance with the following Public Works Department comment:</p>	

**BACKGROUND
CONTINUED**

1. The Edswood Road extension is classified on the Master Street Plan as a principal arterial. Dedication of right-of-way to fifty-five (55) feet from centerline will be required.

The applicant is now requesting that the right-of-way dedication requirement be waived. His contention is that no timeline has been established for construction of the road and the Master Street Plan is subject to change. He is asking that the dedication requirement be waived and instead be negotiated at a future date.

Staff is not supportive of the requested waiver. Section 1A of the City's Master Street Plan "Authority, Jurisdiction and Enforcement" begins as follows:

Any subdivider of land or applicant for rezoning, variance, Conditional Use Permit, site plan or a Building Permit (herein referred to as applicant) review within the official planning area of the City shall conform to the Plan by indicating on any plats, drawings or surveys submitted to the city for its review, any street identified in the Plan which traverses or abuts the said property. Applicants for site plan review and Building Permit are not required to dedicate or construct any bicycle path or route as described in the Plan.

Where the said property abuts a street included in the Plan, the property owner shall dedicate one half of the required right-of-way as established in the Plan.

At the time of filing a CUP application, the applicant was made aware that there may be a requirement to dedicate additional right-of-way. The applicant is asked to sign (3 places) a form titled "Street Right-of-Way Dedication Agreement". The form does not dedicate any property but it provides the applicant an opportunity to either agree or disagree to the dedication requirement. If the applicant disagrees, the Commission is made aware and the waiver can be considered at the time of review of the CUP application. In this case, the property owner signed the form and indicated agreement to dedicate any needed right-of-way as required by the Master Street Plan. The decision to not dedicate the right-of-way was not made until after the Commission approved the CUP.

**BACKGROUND
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As to the applicant's statement alluding to the uncertainty of the alignment of the street, Public Works Engineering staff spent at least two (2) months studying the issue in conjunction with a proposed preliminary plat located just north of this site, on the west side of Edswood Road. Public Works Comment is as follows:

1. The Edswood Road Extension is classified on the Master Street Plan as a future principal arterial: Dedication of right-of-way as shown on the Rahling Road Alignment Plan which crosses this property for future construction. This alignment of the extension of Edswood Road, a southern extension of Rahling Road, that continues south to Interstate 30 was located by engineering staff using existing parcel lines, right-of-ways, and elevation contours in 2011 following the approval of the Hagan Addition Preliminary Plat located on the west side of Edswood Road.

On June 2, 2016, the Planning Commission's vote on the motion to waive the dedication requirement was 5 ayes, 5 nays and 1 absent. The motion failed. Please see the attached Planning Commission minutes for additional information.