

AGENDA ITEM REQUEST FORM

Hays County Commissioners Court

Tuesdays at 9:00 AM

Request forms are due in Microsoft Word Format via email by 2:00 p.m. on Wednesday.

AGENDA ITEM

13-4-16 Replat of Lot 3E, of the Replat of Lot 2 & Lot 3, Werth Subdivision (14 lots). Discussion and possible action to approve preliminary plan; consider granting a variance to Section 721.4.02 of the Hays County Development Regulations; hold a public hearing.

ITEM TYPE	MEETING DATE	AMOUNT REQUIRED
ACTION-SUBDIVISIONS	June 4, 2013	

LINE ITEM NUMBER

AUDITOR USE ONLY

AUDITOR COMMENTS:

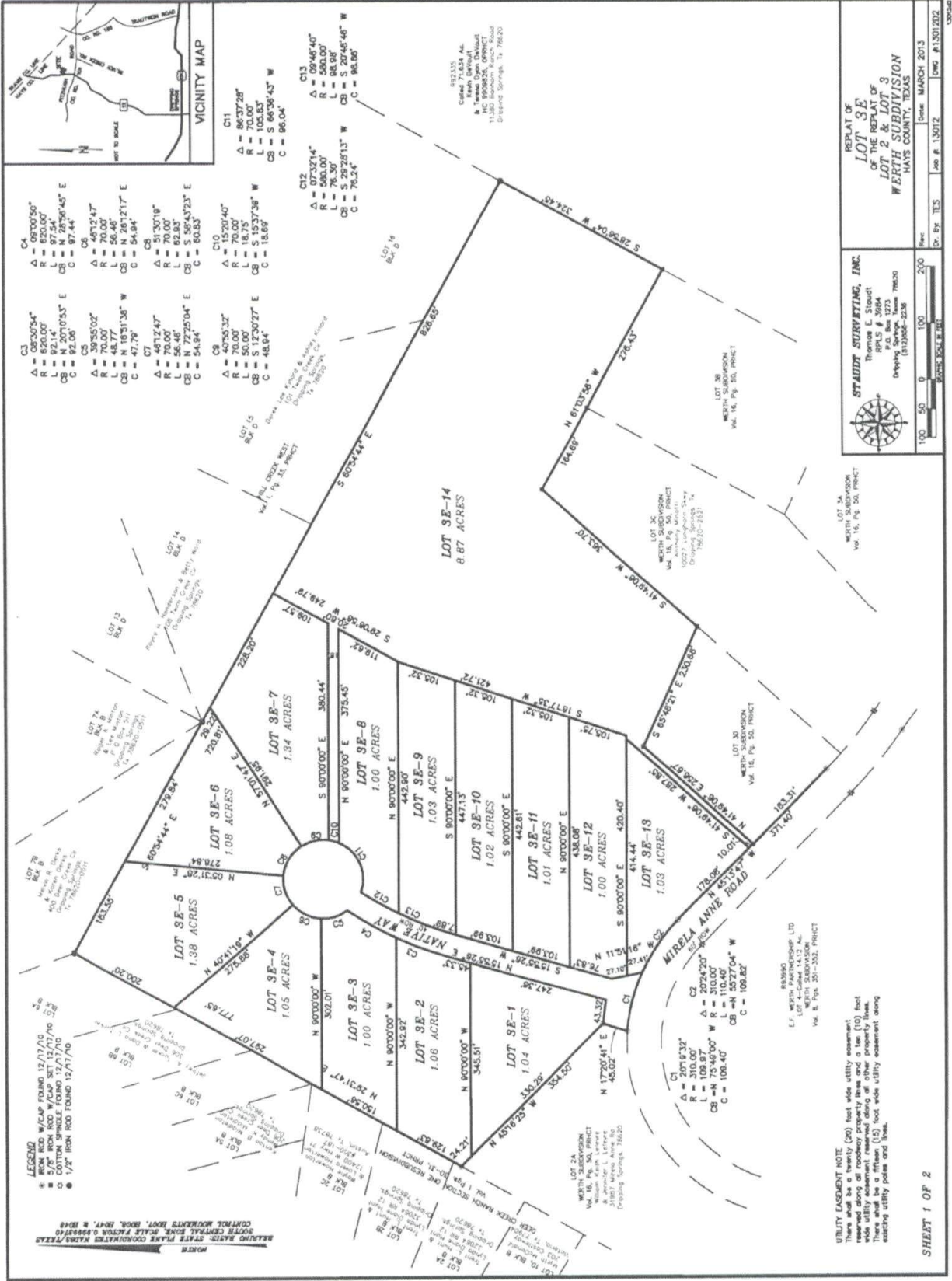
PURCHASING GUIDELINES FOLLOWED: N/A AUDITOR REVIEW: N/A

REQUESTED BY	SPONSOR	CO-SPONSOR
ROXIE MCINNIS	WHISENANT	N/A

SUMMARY

The Werth Subdivision is a seven lot subdivision located off of Mirela Ann Road in Precinct 4. The owner of Lot 3E has proposed to divide the 23.8 acres into 13 residential lots and 1 open space/greenbelt lot. The residential lots range in size from 1.00 to 1.38, each of which will be served by an individual rainwater collection system and advanced on-site sewage facility.

Section 721.4.02 of the Hays County Development Regulations establishes criteria for determining private roadway status. This section states that only developments which have an average lot size of five or more acres or for which the Commissioners Court has entered into a development agreement for a master-planned community of 50 or more lots shall be permitted to utilize private roadways. The developer is requesting that the proposed roadway be privately maintained, however, the average size of the 14 lots equals only 1.64 acres. See the attached variance request for additional information.



STATE OF TEXAS
COUNTY OF HAYS

KNOW ALL MEN BY THESE PRESENTS, that I, Terrascano, Inc., owner of 23.80 Acres of land known as Lot 3E of the Replat of Lot 2 and Lot 3, North Subdivision, a subdivision of record in Volume 16, Pages 50, of the Plat Records of Hays County, Texas, as conveyed to me by deed dated August 7, 2013, and recorded in Volume 16, Pages 50, of the Plat Records of Hays County, Texas, DO HEREBY RESUBDIVIDE 23.80 acres to be known as the REPLAT OF LOT 3E, OF THE REPLAT OF LOT 2 AND LOT 3, WERTH SUBDIVISION, in accordance with the plat shown hereon, subject to any and all easements or restrictions heretofore granted, and do hereby dedicate to the public the use of the streets and easements shown hereon, to be executed by Cothelie Werth, President, thereto duly authorized.

Cothelie Werth
32139 Mirco Arns Rd.
Dripping Springs, Texas 78620

STATE OF TEXAS
COUNTY OF HAYS

BEFORE ME, the undersigned authority, on this day personally appeared Cothelie Werth, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that she executed the same in such capacity as the act and deed of said corporation for the purposes and considerations therein recited.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the _____ day of _____, A.D., 2013.

NOTARY PUBLIC in and for Hays County, Texas

STATE OF TEXAS
COUNTY OF HAYS

I, Liz O. Gonzalez, County Clerk of Hays County, Texas, do hereby certify that on the _____ day of _____, A.D., 2013, the Commissioners Court of Hays County, Texas, passed an order authorizing the filing for record of this plat, and said order has been duly entered in the minutes of the said court Book _____ Page _____

WITNESS MY HAND AND SEAL OF OFFICE this the _____ day of _____, A.D., 2013.

Bert Cook, M.D.
County Judge
Hays County, Texas

Liz O. Gonzalez
County Clerk
Hays County, Texas

STATE OF TEXAS
COUNTY OF HAYS

I, Liz O. Gonzalez, County Clerk of Hays County, Texas, do hereby certify that the foregoing instrument of writing with its certificate of authentication was filed for record in my office on the _____ day of _____, A.D., 2013, at _____ o'clock _____ P.M. in the Plat Records of Hays County, Texas, in Book _____ Page _____

WITNESS MY HAND AND SEAL OF OFFICE this the _____ day of _____, A.D., 2013.

Liz O. Gonzalez
County Clerk
Hays County, Texas

E.T.J. NOTE
This subdivision does not lie within the boundaries of Dripping Springs' extra-territorial jurisdiction.

EDWARDS ACQUETER NOTE
No portion of this subdivision lies within the Edwards Aquifer Recharge Zones. This subdivision does lie within the boundaries of the Contributing Zone of the Edwards Aquifer.

PLAT INFORMATION
Total Area: 23.80 Acres
Number of Lots: 14
Number of Undivided Lots: 0
Number of Contiguous Lots: 0
Average Size of Lots: 1.64 Acres
Road: Native Way-Public
Area in Right of Way: 0.89 Acres
Length in Right of Way: 0.00 Feet
Area in Right of Way: 0.00 Feet

Area in Right of Way: 0.00 Feet
This subdivision is a Resource Conscious Community with homes to be built to high standards of sustainability.
Lot 3E-14 consists of 8.89 acres designated as Somic Greenbelt Park with trails, gardens and open space for use of homeowners as per HOA agreement with Terrascano and/or Assigns.

UTILITY INFORMATION
Water: Rainwater collection systems
Sewer: Advanced On-Site Sewage Facilities Inc.
Electricity: Electric
Telephone: Wireless Communication with 911 capability.

UTILITY EASEMENT NOTE
There shall be a twenty (20) foot wide utility easement (10) foot wide utility easement reserved along all other property lines. There shall be a fifteen (15) foot wide utility easement along existing utility poles and lines.

SCHOOL DISTRICT
This subdivision lies within the Dripping Springs Independent School District.

FLOOD PLAN NOTE
This tract is not within an Identified Special Flood Hazard Area designated by 100-Year Flood as Identified by the Federal Emergency Management Agency, Flood Insurance Rate Map for Hays County, Texas, designated Areas, Map Number 46286G0120 F, dated September 2, 2005.

DRIVEWAY PERMIT NOTE
In order to promote safe use of roadways and preserve the conditions of public roadways, no driveway constructed on any lot within this subdivision shall be permitted until the applicant has obtained a roadway permit (a) a Driveway Permit has been issued by the Hays County Transportation Department of Hays County and (b) the driveway satisfies the minimum spacing requirement for driveway set forth in Chapter 721 of the Hays County Development Regulations.

MINIMUM DRIVEWAY CULVERT SIZE
When required, lots shall have a minimum driveway culvert size of 18".

NOTE
Impervious cover within this subdivision shall be limited to a maximum of twenty percent.

NOTE
Future Development within this subdivision shall be subject to Future Development Regulations of the Hays County Development Services Regulations.

STATE OF TEXAS
COUNTY OF HAYS

KNOW ALL MEN BY THESE PRESENTS, that I, Thomas E. Stuart, a REGISTERED PROFESSIONAL LAND SURVEYOR, do hereby certify that I have surveyed the above described land and that the plat complies with the survey method requirements of the Hays County Development Services Regulations and further certify that this plat is prepared in accordance with the surveying laws of the State of Texas and that the corner monuments were properly placed under my supervision.

"Preliminary, this document shall not be recorded for any purpose."
Thomas E. Stuart
Registered Professional Land Surveyor No. 3894



STAUDD SURVEYING, INC.
Thomas E. Stuart
RPLS # 3894
P.O. Box 1273
Delphos, TX 78620
(512) 268-2238

100 50 0 100 200 Feet
DATE: MARCH 2013
JOB # 13072
DRAW # 13100202
03/26/13



**REQUEST FOR VARIANCE
Hays County, Texas**

To be included with Plat Submittal
or Application for Development Authorization

<i>For Office Use Only</i>	
Tracking Number:	<u>13-4-16</u>
Date App. Received:	<u>3/21/13</u>
Precinct # in which located:	<u>4</u>

INSTRUCTIONS: Complete all questions in this application. If an item does not apply, indicate by placing "NA" in the blank. Do not leave any blank empty.

OWNER INFORMATION:

Property Owner's Full Legal Name: TerraScena, Inc. , Catherine Werth, President and Owner.
Property Owner's Mailing Address: 32139 Mirela Anne, Dripping Springs, Texas 78620
Cell Phone: 512-963-8398 e-Mail Address: catherinewerth@terraScena.com

IF APPLICABLE: Owner hereby gives Native, Inc representative Eddie Thomas and/or Lloyd Lee permission to if necessary to represent her at the meeting of the Hays County Commissioners Court.

I hereby certify that the above statements are true and correct to the best of my knowledge.

Owner's Signature

STATE OF TEXAS
COUNTY OF _____

Subscribed and sworn to before me this _____ day of _____, 20 _____

(seal) _____
Notary Public
My Commission expires: _____

APPLICANT INFORMATION (if different from Owner):

Applicant's Full Legal Name: _____
Applicant's Mailing Address: _____
Home Phone: _____ Work Phone: _____
Cell Phone: _____ e-Mail Address: _____

PROPERTY INFORMATION:

Proposed Name of Subdivision (if applicable): TerraScena, Inc.
911 street address for the Subject Property, if established: Native Way will be the street when established. Property is a few hundred feet from owner's address on Mirela Anne, Dripping Springs, TX 78620

Legal description:

Lot 3E, Replat of Werth Subdivision Previous Plat Recorded Vol 16/Page 50

Hays Central Appraisal District Property ID Number: R135063

Hays County Precinct in which the subject property is located: Precinct 4

ACTION REQUESTED:

- Administrative Variance as follows (check all that apply):
 - Variance in the design and construction associated with a Flood Hazard Area Permit (FHAP) issued under Chapters 711 and 735 of the Regulations that does not result in a change of classification for the FHAP.
 - Variance in the design, construction, and operation for an OSSF permitted under Chapters 711 and 741 of the Regulations that is specifically authorized under TCEQ regulations and involves minimum lot size requirements under County regulations for existing residential OSSFs that are required to be re-certified.
 - Variance in the design, construction, and operation of a Manufactured Home Rental Community permitted under Chapters 711 and 745 of the Regulations that involve roadway alignments and widths.
 - Variance in the alignment, design, and materials of construction for Minor County Facility Use permits issued under Chapters 711 and 751 of the Regulations that otherwise comply with those Chapters.
 - Variance for Conservation Developments issued under Chapter 765 of the Regulations as allowed in Sec. 701.8.05 (1) through (8).
- Variance from the Regulations as they apply to the subdivision of property in Hays County.**
- Other (specify): _____

All Applicants complete the following:

Seeking a variance from the Hays County Development Regulations as follows (attach additional sheets if necessary):

Section of Regulations being Appealed	Requirements of Regulations	Variance Sought from Requirements
721.4.02(C)	Lots within the development served by the Regulated Private Roadway shall have an average size greater than 5 acres _____ _____ _____	We are seeking variance to make Native Way a private road for Phase 1 of TerraScena in which lots are sized between 1 and 1.5 acres and is currently 25.3 acres. TerraScena, however, is planned to be a 50+ home <u>sustainable community</u> and would ultimately comply with the regulation. The TerraScena HOA will have the responsibility to oversee maintenance of this roadway.
	_____ _____ _____	_____ _____ _____

HARDSHIP FINDINGS (attach additional sheets if necessary):

1. Describe the actual situation of the Subject Property and any special or unique condition(s) found thereon which may cause unusual and practical difficulty or unnecessary hardship if Applicant is made to comply with strict enforcement of the Development Regulations:

TerraScena is planned as sustainable community that the Owner/ Developer has been actively working toward for almost two years. The plat, engineering, applications, fees, compliance with TCEQ, legal and financial arrangements are complete or near completion with a goal of beginning building later in the summer 2013. The development began on a limited basis and as presented in our application is contained within 25.3 acres. with 14 one acre lots with an 8.8 conservation area whose protection was a motivating factor in this development.

The change of scope for TerraScena began early in 2013 as the developer entered talks with Native, a recognized and respected leader in custom sustainable homes in central Texas. Native also has a solar arm which spans the state from a newly opened office in Dallas to a solar install on a museum in Corpus Christi.

The joint venture of TerraScena and Native creates a strong team with a shared vision for creating a resource conscious sustainable community that will serve as a model of energy and water conservation.

On Friday, May 3rd Native and their investor closed on the purchase of an adjoining property of 18 acres followed a few days later by a decision with the Werth family to integrate an additional 35 +/- acres. This gives the project a total of over 78 acres with the possible addition of more acreage in the future. The project will continue under the TerraScena name.

A master plan will integrate these pieces of land which were originally all part of the Werth Ranch purchased in 1942 into a model project of Net Zero Homes with rainwater collection, solar and geothermal along with other green building considerations. ***The lots are less than 5 acres, but the homes are not the average subdivision model consuming large amounts of energy and water. There will be a total of over 50 homes when TerraScena is complete bringing one of the largest Net Zero Energy and water conservation projects in the US to Hays County.***

TerraScena will be following the rainwater harvesting model as established by a study by the River Systems Institute (now Meadows Center for Water and the Environment) at Texas State with a grant by the Texas Water Board in which TerraScena was a participant.

While the current application represents only a part of this plan we are asking for consideration and the same option for a private road on Phase 1 as if the project were further along with the 50+ homes on the submission. In 2014 we expect to submit an additional application for development to proceed with the next phases of TerraScena which taken as a whole will bring us into to compliance with the option for private roads with a subdivision having over 50 homes that would allow private roads for privacy and safety.

2. Describe how strict enforcement of the provisions of the Development Regulations that are sought to be varied will (a) deny the Applicant the privileges or safety commonly enjoyed by neighboring or similarly situated property in Hays County with similarly timed development and (b) deprive the Applicant the reasonable use of his land, and that failure to approve the variance would result in undue hardship to the Applicant and/or a regulatory taking:

Strict enforcement of 721.4.02(C) would deny the occupants of Phase 1 the privileges of other similar communities by preventing the installation of a security gate to their community. As noted previously, this is the first phase of a large 50+ lot community which would comply with the regulation without variance

3. Described how the granting of a variance will not be detrimental to public health, safety, and welfare, will not be injurious to other property, or will not prevent the orderly development of the land in the area in accordance with the Development Regulations:

Granting of a variance to 721.4.02(C) would improve safety of the community by allowing the inhabitants of phase I to install a security gate on the private roadway Native Way. Gated Communities are common practice in Hays County and it should be well documented that by allowing the TerraScena HOA to manage it's own road infrastructure and therefore allowing the planned 50+ lot community to become gated will in no way be detrimental to public health, safety and welfare, will not be injurious to other property, or will not prevent the orderly development of the land in the area in accordance with the Development Regulations.

4. The hardship sought to be avoided is NOT the result of (a) the Applicant's own actions (self-imposed or self-created) and/or (b) economic or financial hardship because:

The challenge and strength of this project is based on its unexpected expansion beyond the original scope.

5. Describe how the variance will improve the functionality of the development on the Subject Property:

Granting of a variance to TerraScena Phase I to make Native Way a Private Street and therefore able to be gated will improve the safety of the development for its occupants. It would also ensure that all safety regulations pertaining to the use of the common areas were more strictly followed with accordance to HOA mandated restrictions.

6. Describe how the variance will improve the viability or sustainability of the conservation space for the purposes for which it is set aside, if applicable:

Granting of a variance to TerraScena Phase I to make Native Way a Private Street and therefore able to be gated will improve the safety of the development for its occupants and allow for more controlled access to the community in which conservation land has been set aside for sustainable practices, community food production, and natural enjoyment. This would prevent overuse of sensitive areas, littering, and overall preservation of community regulated and supported infrastructure.

7. Describe how the variance will resolve a conflict between the provisions of the Development Regulations and any other applicable governmental requirements (specify the source of the other requirements):

Our perception is that the public road preference is to provide for the welfare of residents of Hays County who purchase homes within a subdivision. We believe that the greater good will be served from granting a variance for a private road as it protects the residence from the additional traffic created on this short 500 ft street with a cul-de-sac by those who want to drive by and see this green community. There will be times when there will be open houses and educational programs, but on behalf of the future residents we request the private road as a way to safeguard their privacy and reduce traffic.