



STAFF REPORT

MEETING DATE: October 11, 2022

TITLE:

Hold a public hearing and consider action on Resolution No. 2022-93 on an appeal to approve a replat with variances for Piney Ridge Section 1, Block A, Replat of Lot 11, being 1.838 acres out of Piney Ridge Subdivision, located at TBD Post Oak Rim, within the City Limits of Bastrop, Texas, as shown in Exhibit A; providing for a repealing clause; and establishing an effective date.

STAFF REPRESENTATIVE:

Submitted by: Jennifer C. Bills, Director of Planning & Development

ITEM DETAILS:

Site Address: TBD Post Oak Rim (Attachment 1)
Total Acreage: 1.838 acres
Legal Description: Piney Ridge Section 1, Block A, Lot 11

Property Owners: Martha Miles
Agent Contact: James Garon, James E. Garon & Associates, Inc.
Existing Use: Vacant
Existing Zoning: P2 - Rural
Future Land Use: Rural Residential

BACKGROUND/HISTORY:

The applicant has submitted an application to replat Lot 11 of Piney Ridge Section 1, Block A (Exhibit A). The replat proposes dividing the 1.838-acre lot into two lots, 1.065 acres and 0.773 acres.

Section 1 was originally platted with 49 lots in 1978. It was replatted in 1981 with 71 total lots. Section 2 was originally platted with 13 lots in 1980 and replatted with 32 lots. Section 3 was platted in 1981 with 65 lots. Other replats and illegal deed divisions have occurred over the years, yielding over 170 individually owned parcels in the Piney Ridge Subdivision.

The previous item is a public hearing and consideration for the two variances requested for this replat.

Traffic Impact and Streets

Both proposed lots will have frontage on Post Oak Rim. There are 7 streets within the subdivision. Piney Ridge Drive connects to Hoffman Road. The other 6 streets (Laura Lane, Post Oak Rim, Black Jack Cove, Black Jack Lane, Elm Cove and Mesquite Cove all are dead end streets that do not provide any additional connections outside of the subdivision. All 170 existing parcels must exit at Piney Ridge Drive and Hoffman Road.

Utilities

Water service (domestic and fire) is currently provided by the City of Bastrop. Wastewater service is provided by OSSF (on-site sewage facility). The nearest public sanitary sewer line is approximately 1,790 feet from Lot 11.

Drainage

P2 zoning allows a percentage of impervious cover of up to 40%. The Piney Ridge Subdivision uses open ditch systems to convey water into Piney Creek.

POLICY EXPLANATION:

Replats with residential restrictions are reviewed and approved by the Planning & Zoning Commission. This subdivision has residential restrictions.

Bastrop, Texas Code of Ordinances

Chapter 1, Article 1.03, DIVISION 4. - APPEAL AUTHORITY

Sec. 1.03.091 - Established.

With the exception of those powers specifically relegated by state or federal law to certain appointed positions, the mayor and City Council shall hereafter have final authority over all city affairs should there be an appeal to said body politic.

Sec. 1.03.092 - Effect on authority of other officials and agencies.

Those powers and authorities heretofore and hereafter given to appointed officers and officials, city employees, boards and/or commissions shall not be lessened, with the exception that final authority through an appeal shall and will continue to remain with the mayor and City Council.

Sec. 1.03.093 - Scope.

Appeal and review authority shall not be limited to actions, but shall include all avenues of relief, including, but not limited to, permits, fees, payments, charges and penalties, wherein special circumstances or hardships may deem such waiver and/or adjustments necessary.

Compliance with 2036 Comprehensive Plan:

Future Land Use Plan - Rural Residential: The Rural Residential character area is for lands primarily found on the City's periphery, and is characterized by large lot single-family residences, as well as agriculture, ranching, silviculture, and natural landscape. Rural Residential areas which retain a pastoral setting have not always been set aside for conservation or public use, but may eventually be subject to subdivision, and/or conversion to agricultural or other similar uses.

The future land use plan does not define a "large lot size" however the description includes that a majority of the space retain a pastoral setting for agriculture or natural landscape. Creating additional lots does not maintain this intent.

Goal 4.1.1 Provide a greater diversity of housing options in Bastrop while protecting the character of the City's existing neighborhoods.

The Piney Ridge Subdivision was originally platted with a majority of the lots ranging from 1 acre to over 5 acres in size.

Local Government Code

Sec. 212.002. Rules.

After a public hearing on the matter, the governing body of a municipality may adopt rules governing plats and subdivisions of land within the municipality's jurisdiction to promote the health, safety, morals, or general welfare of the municipality and the safe, orderly, and healthful development of the municipality.

Bastrop adopted subdivision regulations in 1981. The B³ Code, Chapter 1: Subdivision outlines the process and requirements for plats within the Bastrop city limits and Extra Territorial Jurisdiction (ETJ).

Section 212.004 Plat Required

- (a) The owner of a tract of land located within the limits or in the extraterritorial jurisdiction of a municipality who divides the tract in two or more parts to lay out a subdivision of the tract, including an addition to a municipality, to lay out suburban, building, or other lots, or to lay out streets, alleys, squares, parks, or other parts of the tract intended to be dedicated to public use or for the use of purchasers or owners of lots fronting on or adjacent to the streets, alleys, squares, parks, or other parts must have a plat of the subdivision prepared.

The applicant has proposed subdividing a 1.838-acre residential lot into two lots. The B³ Code Technical Manual Section 3.2.005 requires all new lots to be a minimum of 1 acre in size if utilizing on-site sewer facilities (septic).

Additionally, the 2018 International Fire Code, Appendix D, Section D107.1 requires a subdivision with more than 30 units/lots to have a secondary point of egress.

Two variance requests accompany this plat request.

Sec. 212.010. Standards for Approval

- (a) The municipal authority responsible for approving plats shall approve a plat if:
- (1) it conforms to the general plan of the municipality and its current and future streets, alleys, parks, playgrounds, and public utility facilities;

The replat does not conform to the Future Land Use Plan, which requires areas to extend utilities as the area becomes more urban.

- (2) it conforms to the general plan for the extension of the municipality and its roads, streets, and public highways within the municipality and in its extraterritorial jurisdiction, taking into account access to and extension of sewer and water mains and the instrumentalities of public utilities;

Extension of roads are required to meet egress requirements for the Piney Ridge Subdivision. Utility extensions are required for sewer for an additional lot that is less than 1 acre.

- (3) a bond required under Section 212.0106, if applicable, is filed with the municipality; and

A fiscal guarantee is not applicable if the replat is approved.

- (4) it conforms to any rules adopted under Section 212.002.

The plat does not comply with the requirements of the adopted B³ Code and Texas Local Government Code.

Sec. 212.014. Replatting without Vacating Preceding Plat.

A replat of a subdivision or part of a subdivision may be recorded and is controlling over the preceding plat without vacation of that plat if the replat:

- (1) is signed and acknowledged by only the owners of the property being replatted;
- (2) is approved by the municipal authority responsible for approving plats; and
- (3) does not attempt to amend or remove any covenants or restrictions.

Sec. 212.015. Additional Requirements for Certain Replats.

(a) In addition to compliance with Section 212.014, a replat without vacation of the preceding plat must conform to the requirements of this section if:

- (1) during the preceding five years, any of the area to be replatted was limited by an interim or permanent zoning classification to residential use for not more than two residential units per lot; or

Prior to the adoption of the B³ Code in 2019, the property was zoned SF-20, which was a residential zoning classification that did not allow more than 1 residential unit per lot.

- (2) any lot in the preceding plat was limited by deed restrictions to residential use for not more than two residential units per lot.

The subdivision has residential deed restrictions.

(a-1) If a proposed replat described by Subsection (a) requires a variance or exception, a public hearing must be held by the municipal planning commission or the governing body of the municipality.

Two variances are being requested.

(b) Notice of the hearing required under Subsection (a-1) shall be given before the 15th day before the date of the hearing by:

- (1) publication in an official newspaper or a newspaper of general circulation in the county in which the municipality is located; and
- (2) by written notice, with a copy of Subsection (c) attached, forwarded by the municipal authority responsible for approving plats to the owners of lots that are in the original subdivision and that are within 200 feet of the lots to be replatted, as indicated on the most recently approved municipal tax roll or in the case of a subdivision within the extraterritorial jurisdiction, the most recently approved county tax roll of the property upon which the replat is requested. The written notice may be delivered by depositing the notice, properly addressed with postage prepaid, in a post office or postal depository within the boundaries of the municipality.

A notice was placed in the Bastrop Advertiser on August 31, 2022 and notice mailed to the property owners within 200 feet. At the time of this report, two responses have been received in opposition.

- (c) If the proposed replat requires a variance and is protested in accordance with this subsection, the proposed replat must receive, in order to be approved, the affirmative vote of at least three-fourths of the members present of the municipal planning commission or governing body, or both. For a legal protest, written instruments signed by the owners of at least 20 percent of the area of the lots or land immediately adjoining the area covered by the proposed replat and extending 200 feet from that area, but within the original subdivision, must be filed with the municipal planning commission or governing body, or both, prior to the close of the public hearing.

At the time of this report, no protest has been received.

- (d) In computing the percentage of land area under Subsection (c), the area of streets and alleys shall be included.

B³ Code – Chapter 1: Subdivisions

- Section 1.3.001 Standard Procedure - Platting

Any subdivision requiring the extension of public infrastructure or of more than four lots require the approval of a Preliminary Plat, Public Improvement Plan, and a Final Plat. This re-subdivision is fewer than four lots and did not require public infrastructure, classifying it as a replat.

- Section 1.3.004 Plat Requirements

The Development Review Committee reviewed the replat for compliance with subdivision and utility standards on August 22, 2022 and deemed that the plat cannot be recommended for approval unless the two variance requests are granted.

PLANNING & ZONING COMMISSION DECISION:

The Planning & Zoning Commission, being the municipal authority responsible for approving plats, held a public hearing at a special meeting on September 15, 2022 and voted 6-0 to deny the replat for not meeting the Bastrop Building Block (B³) subdivision requirements without the variances.

STAFF RECOMMENDATION:

Hold public hearing and consider action to **deny** Resolution No. 2022-93 on an appeal to approve a replat with variances for Piney Ridge Section 1, Block A, Replat of Lot 11, being 1.838 acres out of Piney Ridge Subdivision, located at TBD Post Oak Rim, within the City Limits of Bastrop, Texas, as shown in Exhibit A; providing for a repealing clause; and establishing an effective date.

ATTACHMENTS:

- Resolution No. R-2022-93
- Exhibit A: Piney Ridge Section 1, Block A, Replat of Lot 11
- Attachment 1: Location Map
- Attachment 2: Property Owner Responses