



STAFF REPORT

MEETING DATE: October 11, 2022

TITLE:

Hold a public hearing and consider action through an appeal to City Council on Resolution No. 2022-92 to grant a subdivision variance from the B³ Code Technical Manual, Section 3.2.005 requiring all new lots to be a minimum of one acre in size for on-site sewer facilities and a subdivision variance from the 2018 International Fire Code, Appendix D, Section D107.1 requiring a subdivision with more than 30 units/lots to have a secondary point of egress 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 Owner: 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 (Attachment 2).

The applicant is requesting two variances to the subdivision regulations (Attachment 3):

B³ Code Technical Manual, Section 3.2.005

- (a) Lots 1 acre or greater outside the wastewater CCN [or more than 300 feet from an existing wastewater line] shall be permitted to utilize individual on-site sewage facility methods for sewage disposal; except that lots in subdivisions properly platted, approved, and recorded

prior to April 20, 1981, shall be exempt from this 1 acre minimum lot size requirement, to the extent permitted by current design criteria for on-site sewage facilities and administrative rules of the state commission on environmental quality, or any successive agency.

This standard was adopted to promote orderly development of utilities and infrastructure as areas of the city become more urban. Lots that are 1 acre or greater create a subdivision that is rural in nature. As the lot sizes continue to get smaller and development denser, additional septic systems create environmental issues that are not present with an organized sanitary sewer system. Additionally, as one of the Intents of the B³ Code is to ensure the City is fiscally sustainable, new properties within the City Limits should become wastewater customers.

2018 International Fire Code, Appendix D, Section D107.1 One- and Two-family dwelling residential development

Developments of one- or two-family dwellings where the number of dwelling units exceeds 30 shall be provided with two separate and approved fire apparatus access road.

Exceptions:

1. Where there are more than 30 dwelling units on a single public or private fire apparatus access road and all dwelling units are equipped throughout with an approved automatic sprinkler system in accordance with Section 903.3.1.1, 903.3.1.2 or 903.3.1.3, access from two directions shall not be required.
2. The number of dwelling units on a single fire apparatus access road shall not be increased unless fire apparatus access roads will connect with future development, as determined by the fire code official.

The Piney Ridge Subdivision has only one access road, Piney Ridge Drive, which connects to Hoffman Road. None of the other publicly accessible roads within the subdivision connect out of the subdivision. An accident at this intersection or an emergency that requires evacuation can cause the residents within the subdivision to be stuck with no alternative route for egress.

POLICY EXPLANATION:

Replats with residential restrictions are reviewed and approved by the Planning & Zoning Commission. This subdivision has residential restrictions. Appeal authority remains with the Mayor and City Council.

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.

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.

(a) 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 opposed to the replat have been received (Attachment 4).

(b) 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.

(c) 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 DETERMINATION:

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 both variances.

STAFF RECOMMENDATION:

Hold a public hearing and consider action on the appeal to **deny** Resolution No. 2022-92 to grant a subdivision variance from the B³ Code Technical Manual, Section 3.2.005 requiring all new lots to be a minimum of one acre in size for on-site sewer facilities and a subdivision variance from the 2018 International Fire Code, Appendix D, Section D107.1 requiring a subdivision with more than 30 units/lots to have a secondary point of egress 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-2022-92
- Exhibit A: Piney Ridge Section 1, Block A, Replat of Lot 11
- Attachment 1: Location Map
- Attachment 2: Piney Ridge Parcel Map
- Attachment 3: Applicant Letter
- Attachment 4: Property Owner Response

