

FILE NO.: S-1809-A

NAME: Breeding Addition Preliminary/Final Plat

LOCATION: Located at 7718 Henderson Road

DEVELOPER:

Gary Breeding
4501 Lloyd Drive
Little Rock, AR 72210

OWNER/AUTHORIZED AGENT:

Gary Breeding – Owner/Agent

SURVEYOR/ENGINEER:

Edward Lofton
15415 Oakcrest Lane
Little Rock, AR 72206

AREA: 4.97-acres NUMBER OF LOTS: 2 FT. NEW STREET: 0 LF

WARD: N/A PLANNING DISTRICT: 17 – Crystal Valley CENSUS TRACT: 42.21

CURRENT ZONING: R-2, Single-family

VARIANCE/WAIVERS:

1. A variance from Section 31-232 to allow an increased depth to width ratio for Lot 3.
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BACKGROUND:

On April 5, 2018, the Little Rock Planning Commission denied a request to allow the subdivision of this 4.97-acre parcel into three (3) lots. The applicant indicated the subdivision was requested to allow for the future development of two (2) additional home sites. One of the lots, Lot 2, was requested as a pipe stem lot. Lot 3 was indicated with a depth to width ratio variance. Lot 2 was proposed with a 30-foot pipe stem which included a utility easement extending from Henderson Road. Test pits were dug and evaluated and the soils were indicated as suitable for a subsurface septic system on Lot 1. A subsurface sewage disposal system had been approved for Lot 2 by the Arkansas Department of Health. The residence located on Lot 3 had a subsurface septic system in place.

A. PROPOSAL/REQUEST/APPLICANT'S STATEMENT:

The applicant is now proposing to subdivide the property to allow the creation of two (2) lots. The lots are indicated containing 2.26-acres and 2.71-acres. The applicant is requesting a variance from the City's Subdivision Ordinance, Section 31-232, to allow an increased depth to width ratio for the proposed lots.

Lot 1 has an existing residence with a subsurface septic system in place. There is no evidence of a system malfunction. Lot 2 has been approved by the Arkansas Department of Health for the installation of a subsurface sewage disposal system.

B. EXISTING CONDITIONS:

The property is located outside the city limits of the City of Little Rock but within the City's Extraterritorial Planning Jurisdiction. The area is predominately single-family homes on large tracts and acreage. Henderson Road is a narrow road constructed of chip and seal asphalt. The roadway has no sidewalks in place and open ditches for drainage.

There is an area of C-1, Neighborhood Commercial District zoning to the northwest along Raines Road. There is an area of AF, Agriculture and Forestry zoned property to the south of this site. The Planning Commission approved a Conditional Use Permit request at their April 25, 1996, public hearing to allow the placement of a manufactured home on this site for a period of five (5) years for an aging parent of the previous property owner.

Also located in the area (8210 Henderson Road) is a property zoned PD-O, Planned Development Office, which was approved for a law office in April 1999. The approval allowed the conversion of a single-family residence into an office use. The approval was limited to the McHenry Law firm and when the McHenry Law firm no longer used the property as their law office or the property was sold the structure was to revert back to a single-family residence.

C. NEIGHBORHOOD COMMENTS:

All abutting property owners of the site along with Southwest Little Rock United for Progress were notified of the public hearing.

D. ENGINEERING COMMENTS:

PUBLIC WORKS CONDITIONS:

1. Henderson Road is classified on the Master Street Plan as a residential street. A dedication of right-of-way 25 feet from centerline will be required.

E. Utilities/Fire Department/Parks/County Planning:

Little Rock Water Reclamation Authority: Outside the service boundary. No comment.

Entergy: Entergy does not object to this proposal. There do not appear to be any conflicts with existing electrical utilities at this location. A single phase overhead electrical power line runs along the west side of Henderson Road in front of this property. Contact Entergy in advance to discuss electrical service requirements, location of any new facilities, or adjustments to existing facilities (if any) as this project proceeds.

Centerpoint Energy: No comment received.

AT & T: No comment received.

Central Arkansas Water: No objection.

Fire Department: No comment.

Parks and Recreation: No comment received.

County Planning:

1. Revise the Bill of Assurance to reflect 2 lot plat.
2. Obtain septic permit from the Arkansas Department of Health for any undeveloped lots prior to requesting a 911-address.
3. Applicant is requesting a length to depth variance for both lots from the City of Little Rock.
4. Show surveyor seal and signature on plat.
5. Record the plat at the Pulaski County Clerk's office within one (1) year of the date of execution or plat is null and void.

F. Building Codes/Landscape:

Building Code: No comment.

Landscape: No comment.

G. Transportation/Planning:

Rock Region Metro: The site is not located on a dedicated Rock Region Metro route.

Planning Division: No comment.

H. SUBDIVISION COMMITTEE COMMENT: (June 6, 2018)

Mr. Ed Lofton was present representing the request. Staff presented an overview of the item stating there were no additional items necessary to complete the review process. Staff stated the Commission had recently denied a request to allow the creation of three (3) lots from this tract. Staff stated the current request was to allow two (2) lots. Staff stated there was a variance to allow an increased depth to width ratio for the proposed lots.

Staff noted the comments from the various other departments and agencies. Staff suggested the applicant contact the departments or agencies directly with any questions or concerns. There were no more issues for discussion. The Committee then forwarded the item to the full Commission for final action.

I. ANALYSIS:

There were no outstanding technical issues in need of addressing related to the preliminary plat raised at the June 8, 2018, Subdivision Committee meeting. The request is for plat approval to allow the subdivision of the property into two (2) lots. The lots are indicated containing 2.26-acres and 2.71-acres. The applicant is requesting a variance from the City's Subdivision Ordinance, Section 31-232, to allow an increased depth to width ratio for the proposed lots. The ordinance states no residential lot shall be more than three (3) times as deep as it is wide, except lots approved under paragraph (g) (lots which abut a freeway, expressway, or occupied mainline railroad right-of-way which are required to have a minimum lot depth of 175-feet) or zero lot line lots in the R-2, R-3, PRD and PD-R zoning districts. No lot except lots designated for townhouse use shall average less than one hundred (100) feet in depth. The lot width shall be measured at the building line except in the case of a lot abutting a cul-de-sac where the average width of the lot shall be used.

Section 31-400 states for residential lots or development tracts not served by a public or community sanitary sewerage system whose disposal is approved by the state department of pollution control and ecology, the subdivider shall submit documentation with submission of the preliminary plat that the state department of health, or its delegated authority, will approve septic tank installations, or other individual wastewater disposal methods for service to the subdivision proposed to be platted.

Lot 1 has an existing residence with a subsurface septic system in place. According to the applicant there is no evidence of a system malfunction. Test pits for Lot 2 have been approved by the Arkansas Department of Health for the installation of a subsurface sewage disposal system. Per the guidelines of the Arkansas Department of Health, all facilities used for the collection, treatment, and renovation of wastewater must be at least 50 feet from any pond on the same property and at least 100 feet from any pond on adjacent properties, if in the pond

watershed. In no case shall the minimum separation distance from any pond be less than fifty feet. The Health Department also states all facilities used for the collection, treatment, and renovation of wastewater must be at least 10-feet from any dwelling or building. All facilities used for the collection, treatment, and renovation of wastewater must be at least 10 feet from all property lines. All facilities used for the collection, treatment, and renovation of wastewater must be at least 10-feet from any water service line.

Also per the Subdivision Ordinance, Section 31-400, the subdivider shall either install the improvements referred to this section, or whenever a septic tank and absorption system or private water supply is to be provided, require as a condition in the bill of assurance of the subdivision, that those facilities shall be installed by the builders of the improvements of the lots in accordance with this section. The applicant notes this statement will be included in the bill of assurance.

Staff is supportive of the applicant's request for plat approval. The applicant is seeking approval to allow the creation of a second home site on the property. The applicant has provided information concerning the proposed wastewater collection systems and indicated there is adequate area to allow for subsurface treatment systems on each of the lots. The current request does not include the future construction of any new home(s) on the site. Should the future home be of a construction type which requires review and approval by the City a separate application to the Planning Commission and/or Board of Directors will be requested. Staff is supportive of the plat as requested.

J. STAFF RECOMMENDATION:

Staff recommends approval of the request subject to compliance with the comments and conditions as outlined in paragraphs D, E and F of the agenda staff report.

Staff recommends approval of the variance request from Section 31-232 to allow an increased depth to width ratio for the two (2) lots.

PLANNING COMMISSION ACTION:

(JUNE 28, 2018)

The applicant was not present. There were no registered objectors present. Staff presented the item with a recommendation the item be deferred to the August 9, 2018, Planning Commission hearing date to allow the applicant to secure approval from the Arkansas Department of Health for the existing septic system (which is in place and serving the existing home) was in compliance with all Health Department requirements. There was no further discussion. The item was placed on the consent agenda and approved as recommended by staff by a vote of 9 ayes, 0 noes, 1 absent and 1 recusal (Commissioner Laha).

The applicant is continuing to work with the Arkansas Department of Health to secure written approval of the existing septic system. The applicant has also made contact with the Crystal Valley Volunteer Fire Department requesting the fire department provide an updated letter concerning their knowledge of the proposed lot split and their ability to serve the new lot and future home.

PLANNING COMMISSION ACTION:

(AUGUST 9, 2018)

The applicant was present representing the request. There were registered objectors present. Staff presented the item with a recommendation of approval. Staff presented a recommendation of approval of the variance request to allow an increased lot depth to width ratio.

Debbie Breeding stated she would yield her time to the opposition and then address specific questions the Commission may have regarding the request.

Jannette Goss addressed the Commission in opposition of the request. She stated her home was located at 7519 Henderson Road. She stated when she and her family bought in the area they were told all parcels were to be a minimum of five (5) acres and only one (1) home per five (5) acres was allowed. She stated if the five (5) acre parcels were allowed to subdivide then the number of homes in the area would significantly increase. She questioned why there were rules if they were not obeyed. She stated the street was a dead-end street. She stated the creation of the additional lot would increase traffic on this narrow road.

Joyce Oates addressed the Commission in opposition. She stated she was concerned with the subdivision of the property. She stated her home was located on a five (5) acre parcel. She stated she bought her home because this area was a quiet safe neighborhood. She stated the subdivision would create additional traffic. She stated the subdivision would diminish property values in the area. She stated once a property was subdivided more request would be made for the subdivision of additional parcels.

Hedi Theroux addressed the Commission in opposition of the request. She stated a mobile home on the property would impact property values. She stated if one (1) mobile home was allowed this would set precedence and others would be allowed. She stated she had lived in the area for 11 years. She stated the area was clean, quiet and no mobile homes. She requested the Commission deny the request.

Alan Machen addressed the Commission in opposition of the request. He stated he objected to the placement of a mobile home on this property. He stated he did not want the property values going down.

Donna McHenry addressed the Commission in opposition of the request. She stated the City's ordinance required four (4) established criteria for granting a variance. She stated the conditions upon which the request for variance was based were unique to the property and it was determined because of the particular physical surrounding, shape or topographic conditions of the property involved, strict application of these regulations

would deprive the owner of reasonable use of the property. She stated the granting of the variance would not be detrimental to the public safety, health or welfare, or injurious to other property. The variance would not in any manner vary the provisions of the zoning ordinance, the master street plan or the municipal plan and the variance was not based solely on pecuniary difficulties, but had other overriding hardships. She stated the property was zoned R-2, Single-family. She stated the property had historically been a single-family home with a single driveway. She stated cutting the property in half was a detriment to the area. She stated the two (2) narrow lots created a safety concern. She stated the buffers would be lost. She stated there was a health concern and a number of the homes in the area were still on wells. She stated based on contamination of the wells in the area a number of the homes had gone together and extended water service to the area. She stated when reviewing the Health Department approval there was a statement that indicated there was no guarantee that if the system was installed as per the requirements the system would function properly.

Michael Craig addressed the Commission in opposition of the request. He stated his concerns were property values and the variance request. He stated most properties in the area were five (5) acre parcels and had not been divided into two (2) to three (3) acre lots. He stated there had been no communication between the Breedings and the neighbors. He stated there were exceptions and variances were necessary but this did not appear to be a hardship.

Robert McHenry addressed the Commission in opposition. He stated the area was a safe area. He stated the area was safe for children and families to walk and play. He stated he was concerned with the gun fire. He stated his family had horses and could not ride their horses on the back side of their farm for fear of gun fire. He stated he was concerned with the variance request. He stated there did not appear to be any hardship to justify the variance request. He stated the ordinance was put in place for a purpose and that was to protect the area residents.

Debbie Breeding addressed the Commission stating she and her husband Gary had looked for a property to purchase for their family to live. She stated this property was a blessing in there was ample property for her and her children to all have a home on the parcel. She stated she wanted to live on the property and be close to her grandchildren. She stated the existing home was renovated and her son and his wife were living in the home. She stated at some point in the future she and her husband or her daughter would like to add a second home on the property. She stated there was no firing range on the property. She stated she had called the Pulaski County Sheriff and questioned if firing a gun within the County was legal. She stated she was told she was within her rights to fire the gun on their private property. She stated two (2) homes would not generate a great deal of traffic. She stated the residents had indicated this was a nice quiet neighborhood.

She stated with the exception of the motorcycles running up and down the road this was true. She stated the residents had indicated a concern over the lot size. She stated the three (3) homes to the south of this property were located on less than 1/3 of an acre. She stated the request for a mobile home may or may not come before the Commission. She stated her family dynamics had changed and her daughter did not want to move to

this area. She stated she had done all that was requested. She stated the existing septic system had been cleaned, inspected and was working properly. She stated she was willing to work with everyone and be a good neighbor.

There was a general discussion by the Commission concerning the request and the need for the hardship. Commissioner Laha questioned if this request was a "Richardson Case". The Deputy City Attorney Shawn Overton stated the request included a variance so the request was not a "Richardson Case". Commissioner Berry questioned the process if the applicants wanted to place a mobile home on the site. Staff stated depending on the unit the request would be a rezoning or a conditional use permit. Staff stated a mobile home would not be allowed by-right. Commissioner May questioned why the need to subdivide if they wanted two (2) homes on the property. Staff stated per the ordinance only one (1) home per parcel was allowed.

The chair entertained a motion for approval of the item including all staff recommendations and comments. The motion failed by a vote of 5 ayes, 5 noes and 1 absent.