

**AGENDA ITEM**

**TO:** Planning and Zoning Commission

**THROUGH:** Brandon Opiela, Planning Manager

**FROM:** Samantha Gleinser, Planner I

**SUBJECT:** Consider/Discuss/Act on the Request by Sparr Surveys, on Behalf of Michelle Bowen Barr, for Approval of a Preliminary-Final Plat for Lots 1 and 2, of the Cross Creek Reserve Addition, Being Fewer than 18 Acres, Located on the East Side of County Road 165 (Future Ridge Road) and Approximately 2,000 Feet North of County Road 1461

**APPROVAL PROCESS:** The City Council is the final approval authority for the proposed preliminary-final plat.

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**STAFF RECOMMENDATION:** Staff recommends denial of the proposed preliminary-final plat (and associated variances) due to a lack of conformance with the Subdivision Ordinance and International Fire Code.

The following variances have been requested by the applicant:

1. The applicant receive approval of a variance to Section 142-105 (Improvements) of the Subdivision Ordinance waiving the requirement to construct public streets including the associated street lighting and sidewalks adjacent to the property.
2. Approval of a variance to Section 142-105 of the Subdivision Ordinance waiving the requirement to construct sanitary sewer and water lines to the subject property and extend them to the adjacent property upstream.
3. Approval of a variance to Section 142-105 of the Subdivision Ordinance allowing the use of individual septic systems.
4. Approval of a variance to the Storm Water Management Ordinance waiving the requirement to collect drainage in an underground storm water system.
5. Approval of a variance to the 2006 Edition of the International Fire Code, including local amendments, waiving the requirement that fire hydrants and minimum fire flows be provided.

***However, if the proposed preliminary-final plat is approved with the variances requested by the applicant, the following conditions of approval should also apply:***

1. The applicant satisfy the conditions as shown on the Standard Conditions for Preliminary-Final Plat Approval Checklist, attached.

Prior to filing the plat for record:

2. The applicant revise the plat to remove “Existing 23’ Asphalt Paving” and label instead as “Prescriptive Right-Of-Way”.

**APPLICATION SUBMITTAL DATE:** July 15, 2013 (Original Application)  
August 5, 2013 (Revised Submittal)

**ITEM SUMMARY:** The applicant is proposing to subdivide approximately 17.90 acres of land, located on the east side of County Road 165 (Future Ridge Road) and approximately 2,000 feet north of County Road 1461 within the City of McKinney’s Extraterritorial Jurisdiction (ETJ). Because the subject property is located within McKinney’s ETJ, the regulations of the Zoning Ordinance do not apply to the subject property but the regulations of the Subdivision Ordinance do apply.

Under State Law, before a property can be subdivided in the City of McKinney ETJ, it must be platted and filed for record with the Collin County Clerk, in accordance with the City of McKinney’s subdivision regulations. Typically, preliminary-final plats are considered by the Planning and Zoning Commission. This preliminary-final plat has bypassed the Planning and Zoning Commission and is being considered by the City Council instead because the applicant has requested several variances to requirements of the Subdivision Ordinance and International Fire Code. Per the Subdivision Ordinance, only the City Council can grant a variance.

The subject property currently has a single-family residence on the southwestern portion of the property (Proposed Lot 1). This structure currently utilizes a septic system and substandard water to address utility needs, and storm water drainage and/or detention is not being addressed on the property. The applicant has requested to subdivide the property into two lots (both for single-family residential use), with proposed Lot 1 being approximately 2.84 acres and proposed Lot 2 being approximately 14.96 acres. Each of the proposed lots has access to County Road 165 via frontage or an access and public utility easement. It should be noted that although the applicant has requested the requirements to construct said infrastructure be waived, the applicant has agreed to provide the easements for any utility lines extended in the future. The applicant has also requested variances to waive certain drainage and fire flow requirements as well as a variance to permit a septic system on the lots. Staff is recommending denial of the requested variances due to lack of conformance with the Subdivision Ordinance and International Fire Code.

**PLATTING STATUS:** In order to subdivide the subject property as proposed by the applicant, several variances to the requirements of the Subdivision Ordinance and International Fire Code are needed. These variances are indicated below:

1. The applicant receive approval of a variance to Section 142-105 (Improvements) of the Subdivision Ordinance waiving the requirement to construct public streets including the associated street lighting and sidewalks adjacent to the property.
  - o The City of McKinney's Master Thoroughfare Plan identifies County Road 165 to be a future extension of Ridge Road, and as such a future major arterial roadway. The City's Subdivision Ordinance requires that County Road 165 (Future Ridge Road), where adjacent to the subject property (approximately 62 feet in length), be constructed by the applicant. Though the applicant is requesting a variance waiving the requirement to construct the roadway, it should be noted that the applicant has dedicated 60' of right-of-way for the future development of the road. However, should the applicant not be required to participate in the physical construction or escrow monies towards the construction of a portion of County Road 165 (Future Ridge Road), this responsibility may become the responsibility of the City in the future, as the improved roadway becomes necessary to accommodate additional traffic in the area.
2. Approval of a variance to Section 142-105 of the Subdivision Ordinance waiving the requirement to construct sanitary sewer and water lines to the subject property and extend them to the adjacent property upstream.
  - a. The Subdivision Ordinance requires sanitary sewer and water infrastructure to adequately service the subdivision and conform to the City of McKinney sewer and water plans. The sanitary sewer line is also required to be extended across both proposed lots of the subject property to the adjacent properties. The applicant has requested a variance be granted waiving these requirements, and has requested septic systems be used in place of the City sewer system and the existing water line be utilized in place of the master planned line size. If properties are allowed to develop without the provision of adequate public infrastructure, it shifts the burden/cost of providing the master plan sized sanitary sewer and water lines across the site to the City and those seeking to develop upstream.
3. Approval of a variance to Section 142-105 of the Subdivision Ordinance allowing the use of individual septic systems.
4. Approval of a variance to the Storm Water Management Ordinance waiving the requirement to collect drainage in an underground storm water system.

5. Approval of a variance to the 2006 Edition of the International Fire Code, including local amendments, waiving the requirement that fire hydrants and minimum fire flows be provided.
  - a. The proposed lot is served by substandard City of McKinney water lines (formally maintained by Danville Water Supply Corporation). However, the applicant is required to provide the required line sizes and fire hydrants for the subject property, in addition to the pressures and flows required by the Subdivision Ordinance. The applicant has requested a variance to the required fire hydrants, water pressures, and fire flows. The existing water line is not able to provide the fire flow and pressures required by the City of McKinney Fire Department. The minimum requirements of the City of McKinney are intended to provide sufficient fire protection for the safe, efficient and orderly development of the City and its ETJ. The City of McKinney Fire Marshal has stated that the 2006 Edition of the International Fire Code, the Code adopted by both the City of McKinney and Collin County, requires an approved water supply capable of supplying the required fire flow for fire protection. The Code outlines the fire flows based on the size of the structure and its type of construction and are based on the amount of water needed at 20 pounds per square inch to adequately fight a fire in the structure. A minimum fire flow of 1,500 gallons per minute is also required. The Fire Marshal has stated property owners can expect the maximum amount of damage and losses when sufficient water supplies are not provided.

The City Council has the authority to grant variances as outlined in the Subdivision Ordinance when there are special circumstances or conditions affecting the property in question, enforcement would deprive the applicant of a substantial property right, or that the variance, if granted, will not be detrimental to the public welfare. Pecuniary interests standing alone shall not be justification for granting a variance.

Staff recommends denial of all of the requested variances to the requirements of the Subdivision Ordinance and International Fire Code as granting these requested variances will make this area of the ETJ (future City of McKinney) increasingly more difficult to develop in the future. More specifically, approving the requested variances will likely shift the cost of providing infrastructure to this area directly to the City of McKinney or potential future upstream developers.

**SURROUNDING ZONING AND LAND USES:**

Subject Property: Unzoned – “ETJ” – Extraterritorial Jurisdiction

North	Unzoned – “ETJ” – Extraterritorial Jurisdiction	Undeveloped Land
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South	Unzoned – “ETJ” – Extraterritorial	Undeveloped Land
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	Jurisdiction		
East	Unzoned – “ETJ” – Jurisdiction	Extraterritorial	Undeveloped Land
West	Unzoned – “ETJ” – Jurisdiction	Extraterritorial	Undeveloped Land

**ACCESS/CIRCULATION:**

Adjacent Streets: County Road 165 (Future Ridge Road), 120’ Right-of-Way,  
Future 6-Lane Major Arterial

Discussion: Lot 2 will have direct access to County Road 165 (Future Ridge Road), while Lot 1 will gain access to County Road 165 (Future Ridge Road) via the access and public utility easement on a portion of Lot 2. The applicant has dedicated a 60’ access and public utility easement to provide Lot 1 with access to County Road 165 (Future Ridge Road).

**TREE PRESERVATION ORDINANCE:** Because the subject property is located within the City of McKinney’s ETJ and not within the City’s limits, the applicant will not be responsible for complying with the Tree Preservation Ordinance.

**PUBLIC IMPROVEMENTS:**

- Sidewalks: Required per the Subdivision Ordinance
- Hike and Bike Trails: Not Required
- Road Improvements: All road improvements necessary for this development, and as determined by the City Engineer
- Utilities: All utilities necessary for this development, and as determined by the City Engineer

Discussion: Under the requirements of the Subdivision Ordinance, the applicant will be required to construct all necessary public improvements prior to filing the associated plat, unless the requested variances are approved by the City Council.

**DRAINAGE:** The applicant will be responsible for all drainage associated with the subject property, and for compliance with the Storm Water Management Ordinance, which may require on-site detention, unless the requested variances are approved.

**FEES:**

Roadway Impact Fees: Not Applicable (Ordinance No. 2008-10-173)

Utility Impact Fees: Applicable (Ordinance No. 2008-10-174)

Median Landscape Fees: Not Applicable

Park Land Dedication Fees: Not Applicable

Pro-Rata: Not Applicable

**CONFORMANCE TO THE MASTER THOROUGHFARE PLAN (MTP):** The proposed request does not conflict with the Master Thoroughfare Plan.

**OPPOSITION TO OR SUPPORT OF REQUEST:** Staff has received no comments in support of or opposition to this request.

**ATTACHMENTS:**

- Standard Conditions for Preliminary-Final Plat Approval Checklist
- Location Map and Aerial Exhibit
- Letter of Intent
- Proposed Preliminary-Final Plat
- PowerPoint Presentation