

Planning Staff Analysis

V26-0005/Triptych Addition Private Access Easement Variance

City Council District #2 & ETJ 1

Planning & Zoning Commission

REQUEST:

Consider a request by Richard Stroup for approval of a subdivision variance from the 2019 Denton Development Code Subsection 8.3.2.C.2.a. regarding the maximum number of residential lots permitted to take access from a private access easement.

SITE DATA:

The subdivision variance is associated with a submitted Final Replat (FR26-0003) of a 9.873-acre lot located approximately 4,950 ft north of Loop 288 that is both in City of Denton city limits and in the City's Extraterritorial Jurisdiction Division 1 (see Exhibit 3 for site location). The subject property currently has street frontage on F.M. 2164 (also known as North Locust Street), and it also has access to F.M. 2164 via an existing private access easement that encompasses an existing gravel drive (also known as Pecan Creek Drive) currently used for access to twelve properties.

The submitted replat (Exhibit 4) intends to subdivide the subject property into two lots along the City limits line. Lot 1R-1 on the replat would be within City limits and has street frontage on F.M. 2164. The lot is undeveloped and is intended for single-family residential and agricultural purposes. It meets the minimum dimensional requirements for a private well and an onsite sanitary sewer facility since there are no City utility lines in the vicinity. Lot 1R-2 on the replat would be within the City's ETJ 1 and has access to F.M. 2164 via the above-mentioned private access easement. The lot contains a single-family residence, and it is served by a private well and private, onsite sewer facility.

CONSIDERATIONS:

The City of Denton Development Code Subsection 2.8.7.B. states that any property owner seeking relief from standards contained within specific sections of Subchapters 7 and 8 as identified in Subsection 2.8.7.B. may request a subdivision variance from strict application of the Code when said variance would meet approval criteria specified in DDC Subsection 2.8.7.D. Subdivision variances are considered hardship variances and may be appropriate based on a finding that unreasonable hardships or difficulties would result from strict compliance with the subdivision regulations, or the purposes of the regulations may be served to a greater extent by an alternative proposal. Furthermore, a subdivision variance may be approved so that substantial justice is done, and the public interest is secured so long as the variance would not nullify the intent and purpose of the City's subdivision regulations.

The Planning and Zoning Commission shall review and determine the appropriateness of the proposed subdivision variance request based on the criteria listed below (DDC Subsection 2.8.7.D). In reviewing a subdivision variance application, the Planning and Zoning Commission shall find that all of the following exist:

1. The granting of the variance will not be detrimental to the public safety, health, or welfare or injurious to other property.

If approved, the requested variance is not anticipated to be detrimental to public safety, health, or welfare or injurious to other property. The private access easement exists in its configuration today, and the proposed subdivision, and uses, are not expected to increase the traffic burden on F.M. 2164. The traffic impact from two single-family residential and agricultural lots is minimal (see Exhibit 5).

2. Because of the particular physical surroundings, shape or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of the subdivision regulations is carried out.

The peculiar pattern of development in this general area has created unique conditions that place a particular hardship upon the subject tract owner's ability to subdivide and develop their property. The strict application of the City's subdivision regulations would not allow for any subdivision of the subject tract because it limits the number of residential lots that can access a public road by way of a private access easement to three lots. The way this area has been divided and developed over time has created a configuration that is already out of compliance as there are twelve properties that currently use the existing private access easement to access a public road, of which nine have existing single-family residences.

Furthermore, reconfiguring Lot 1R-2 on the submitted replat to be flag lot so it could have street frontage on F.M. 2164 is not a viable alternative. The DDC discourages the creation of flag lots, and the length of the flagpole portion, approximately 400 ft, would exceed the maximum allowed length of 300 ft (DDC 8.3.2.A.5 and 8.3.2.E.3). Enlarging Lot 1R-2 to shorten the length of the flagpole is also not possible because it would violate the requirement that lots not be divided by the City limits line (DDC 8.3.2.A.7).

3. The subdivision variance will not in any manner vary the provisions of the Comprehensive Plan, the Development Code, and the Denton Mobility Plan, except that those documents may be amended in the manner prescribed by law.

If approved, the allowance for more than three residential lots to take access from a private access easement will not introduce design standards that are incompatible with the Comprehensive Plan or Denton Development Code. The requested variance does not vary the provisions of the Denton 2040 Comprehensive Plan, Denton Mobility Plan, and Denton Development Code except for the standard described herein, which is eligible for variance as described in Subsection 2.8.7 of the DDC. The submitted plat is compliant with the Denton Development Code except for the requested variance.

4. The special or peculiar conditions upon which the request is based did not result from or were not created by the act or commission of the owner or any prior owner, subsequent to the date of creation of the requirement from which a subdivision variance is sought.

The conditions associated with the subject property being one of twelve properties having access to F.M. 2164 via a private access easement were not created by the owner after the date of the adoption of the subject regulations. According to the VE Gailor Survey Abstract (see Exhibit 6), the existing private access easement provided access to eight properties in 1987. Subsequent subdivisions have led to the existing layout where twelve properties have access to F.M. 2164 via the above-mentioned private access easement of which nine have single-family residences on them. Therefore, the Code's limit on the number of residential lots taking access from a private access easement was surpassed and in existence prior to the owner's request to subdivide the property.

Planning and Zoning Commission approved similar subdivision variance requests for the PLR Addition Final Plat, FP25-0006, at the March 19, 2025 meeting and the 697 Pecan Creek Addition Final Plat, FP25-0030, at the September 24, 2025 meeting that were asking for relief from the same code provision, DDC 8.3.2.C.2.a.

STAFF RECOMMENDATION:

Staff recommends approval of the request as it is not detrimental to the public's welfare, is consistent with the overall goals and of the subdivision requirements of the Denton Development Code, and meets the criteria for approval prescribed in Section 2.8.7 of the DDC.