

Planning Staff Analysis

V26-0008/Zepeda Addition Variance

City ETJ 1

Planning & Zoning Commission

REQUEST:

Consider a request by Lizette Zepeda 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 Final Plat of a 14.966-acre lot located approximately 2,320 feet north of Gribble Springs Road in the Extraterritorial Jurisdiction Division 1 of the City of Denton (see Exhibit 3 for site location). The subject property only has access to a public road, Gribble Springs Road, via an existing private access easement that encompasses an existing gravel drive (also known as Indian Wells Road) currently used for access to seven properties.

The associated plat would split the subject property into two lots for the purpose of adding a single-family residential dwelling to Lot 2. Lot 1 has an existing, single-family residence and is served by a private well and private, onsite sewer facility. Both proposed lots meet the minimum dimensional requirements for a private well and an onsite sanitary sewer facility since there are no City utility lines in the vicinity.

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 Gribble Springs Road. The traffic impact from two single-family residential lots is minimal.
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 seven properties that currently use the existing private access easement to access a public road all of which have single-family residences on them.

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 seven properties having access to public road via a private access easement were not created by the owner after the date of the adoption of the subject regulations. Access and utility easements for the subject property and other properties along Indian Wells Road were recorded with the County in 1982 (see Exhibit 6). The DDC was adopted by City Council in 2019; therefore subdivision regulations that would have restricted the creation of the private road were not in effect at the time of its creation.

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.