

RESOLUTION NO. R2023-17

A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS, DENYING THE PRELIMINARY PLAT OF HILLTOP OAKS SUBDIVISION CONSISTING OF APPROXIMATELY 92 RESIDENTIAL LOTS ON 76.06 ACRES OUT OF THE JOHN HAMILTON SURVEY, ABSTRACT NO. 405.

Whereas, The Planning and Zoning Commission conducted a public hearing on February 6, 2023;

Whereas, Planning and Zoning recommended denial of the application on February 6, 2023;

Whereas, City Council conducted a public hearing on this application on February 28, 2023.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS, THAT:

Section 1. Findings. That the recitals to this Resolution are found to be true and correct and incorporated herein for all purposes as the findings of the City Council.

Section 2. Additional Findings. Upon receipt of the presentation of this application by city staff, the City Council makes additional findings as follows:

- (a) The preliminary plat application proposes the establishment of 92-single family lots on approximately 75.87 acres (hereinafter the acreage shall be referenced as the "property"); and
- (b) Sec. 98-42(b)(1) of the City Code provides: "*any residential subdivision developments shall have a minimum of two means of ingress/egress when servicing more than 30 residential lots. The two means of ingress/egress shall comply with all the regulatory requirements of the city, including floodplain management*"; and
- (c) Sec. D107 of the 2015 International Fire Code provides as follows:

SECTION D107 ONE- OR TWO-FAMILY RESIDENTIAL DEVELOPMENTS

D107.1 One- or two-family dwelling residential developments. *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 roads.*

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 of the International Fire Code, 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.

D107.2 Remoteness. *Where two fire apparatus access roads are required, they shall be placed a distance apart equal to not less than one-half of the length of the maximum overall diagonal dimension of the property or area to be served, measured in a straight line between accesses.*

- (d) Sec. 98.48(1)(b) provides: “[r]esidential blocks shall not exceed 600 feet nor be less than 300 feet in length, except as otherwise provided for herein”; and
- (e) The City Planner has opined that the requirements of Sec. 98-42(b)(1) of the City Code and Sec. D107 2015 International Fire Code are applicable to this application; and
- (f) The application makes reference to a forty-foot-wide proposed access road established by two instruments recorded as Document No. 20210389 and Volume 153, Page 795 of the Public Records of Burnet County, as satisfying the requirements of Sec. 98-42(b)(1) of the City Code and Sec. D107 2015 International Fire Code; and
- (g) Upon consultation with the city attorney the City Planner has determined that the easement is shown to terminate near a location known as Hilltop Drive; and
- (h) After exhaustive research by the applicant, city staff and the city attorney no evidence was found that conclusively shows the status of Hilltop Drive and it cannot be determined that it is a public road or a private road that the applicant had a legal right to access; and
- (i) The legal right to ingress and egress across Hilltop Drive is essential to connecting the property to the public road (Texas Hwy 29).
- (j) The proposed block length for the streets identified on the preliminary subdivision plat application as SPAULDING LOOP (BLOCK B) is 1103.47 FEET, SPAULDING LOOP (BLOCK C) is 841.83 FEET, BOWEN PASS (BLOCK E) is 822.3 FEET, and RET ROAD (BLOCK F) is 989.34 FEET, which exceeds the maximum length authorized under Sec. 98-48(1)(b).

Section 3. Denial. In accordance with Sec. 212.0091 Local Government Code the City Councils finds the plat application be denied for the conditions that follow:

- (a) The preliminary plat application fails to comply with the requirements of Sec. 98-42(b)(1) of the City Code and Sec. D107 2015 International Fire Code; and
- (b) The preliminary plat violates Sec. 98-48(1)(b) in that proposed block lengths exceeds 600 feet.

Section 4. Cure of conditions. To cure the conditions for denial the applicant is to revise the preliminary plat application to show the location of the proposed secondary access connects to a public road and by provision of a plat note showing a legal right of the future residents of the proposed subdivision to ingress and egress across the aforementioned Hilltop Drive or other way. Such evidence shall be made by either:

- (a) Proof of public acceptance of public rights-of-way connecting to a public road by either:
 - (1) order of acceptance of the right-of-way by the Burnet County Commissioner's Court, prior to annexation of the aforementioned Hilltop Drive; or
 - (2) ordinance, resolution or order of acceptance of the right-of-way by the City Council subsequent to annexation of the aforementioned Hilltop Drive;or
- (b) Proof of a private right of ingress and egress to the public road granted by an easement instrument executed by all required interested parties authorized to grant such rights, and which has been recorded in the Official Public Records of Burnet County; or
- (c) Proof of an implied dedication of public right-of-way as determined by final action of a court of appropriate jurisdiction.

The preliminary plat application shall be revised to include, as an exhibit, evidence of compliance with items (a)(1), (a)(2), (b), or (c), as may be applicable; and provide block lengths that comply with Sec. 98-48(1)(b).

Section 5. Open Meetings. It is hereby officially found and determined that the meeting at which this resolution was passed was open to the public and that public notice of the time, place and purpose of said meeting was given as required by the Texas Open Meetings Act.

Section 6. Effective Date. That this resolution shall take effect immediately upon its passage, and approval.

PASSED AND APPROVED this the 28th day of February 2023.

CITY OF BURNET, TEXAS

ATTEST:

Crista Goble Bromley, Mayor

Kelly Dix, City Secretary