



# Agenda Item Report

**Legislative Board:** City Council  
**Date:** March 5, 2024  
**Contact:** Will Parrish  
**Agenda Item ID / Number:** 2024-202- / J.5

**ITEM TITLE:** Deliberation and possible action to consider a request from LJA Engineering on behalf of 4550 FM 967, LTD for Subdivision Waivers to Section 2.07.01 Residential Dimensional Standards, and Section 3.05.8(D)1 Minimum Number of Access Points, for the proposed Kali Kate Preliminary Plat, being +/- 46.26 acres out of the S.D. Gervais Survey No. 8, City of Buda, Hays County, Texas (PP 22-19) (Development Services Director Angela Kennedy) [PUBLIC TESTIMONY]

## 1. EXECUTIVE SUMMARY

This is the consideration and action item regarding a Preliminary Plat Subdivision Waiver Request for PP 22-19, otherwise known as the Kali Kate Preliminary Plat City of Buda. The applicant is requesting two Subdivision Waivers. The first waiver is requested for Section 2.07.01 of the Unified Development Code (UDC) which requires that all lots zoned R-2 meet minimum dimensional regulations. Two proposed lots do not meet the minimum lot depth requirement of 100 feet. The second waiver request is for Section 3.05.08(D)1, which requires that subdivisions with between 0 and 149 lots have a minimum of two access points on a Collector Street or larger facility. The Kali Kate Preliminary Plat includes 80 residential lots and therefore requires two access points. Only one access point is available onto RM 967. An emergency access point has been negotiated onto the Carpenter Hill Elementary drive and approved by Hays CISD. The Subdivision Waivers have been considered by the Planning and Zoning Commission and must be approved by City Council before the Preliminary Plat can be officially approved.

The Planning and Zoning Commission recommended approval of the Subdivision Waivers by a vote of 5-1 at their regularly scheduled February 13, 2024 meeting.

This proposed Preliminary Plat meets all other City of Buda requirements for a Preliminary Plat.

## 2. BACKGROUND/HISTORY

The UDC states in Section 2.07.01 requires that R-2 lots have a minimum lot depth of 100 feet, as seen in Residential Dimensional Regulations Table (Exhibit A).

In the proposed preliminary plat, Lots 1 and 2, Block A, do not meet the minimum Depth requirement of 100 feet as the proposed lots are approximately 94 feet deep. The Applicant is requesting to mitigate the lot depth issue by requiring homes constructed on these lots to have side loaded garages, as seen in their request (Exhibit B).

Additionally, the proposed subdivision only has one street connection to FM 967. This is primarily

due to the narrowness of the property, and the lack of space for adequate intersection spacing. This conflicts with Section 3.05.08(D)1, which requires a minimum of two access points to facilities that are Collector Streets or larger, as seen in Exhibit C.

In order to remedy the lack of access, the applicant has been working with the Hays County School District to provide an Emergency Access Easement that would connect the proposed “Patsy Drive” to the Carpenter Hill Elementary School driveway, which would be gated except for in emergencies. Buda Fire and the School District have agreed to the potential access point.

The Preliminary Plat meets all other UDC requirements for approval.

## **Criteria for Approval**

### **Subdivision Waiver Evaluation Criteria:**

#### **1. Undue Hardship Present**

A Subdivision Waiver to regulations within this UDC may be approved only when, in the Decision-Maker's opinion, undue hardship will result from strict compliance to the regulations.

#### **2. Consideration Factors**

The Decision-Maker shall take into account the following factors:

- a. The nature of the proposed land use involved and existing uses of the land in the vicinity;
- b. The number of persons who will reside or work in the proposed development; and
- c. The effect such Subdivision Waiver might have upon traffic conditions and upon the public health, safety, convenience, and welfare in the vicinity.

#### **3. Findings**

No Subdivision Waiver shall be granted unless the Decision-Maker finds:

1. That there are special circumstances or conditions affecting the land involved or other constraints such that the strict application of the provisions of this UDC would deprive the Applicant of the reasonable use of his or her land; and
2. That the Subdivision Waiver is necessary for the preservation and enjoyment of a substantial property right of the Applicant, and that the granting of the Subdivision Waiver will not be detrimental to the public health, safety or welfare or injurious to other property in the area; and
3. That the granting of the Subdivision Waiver will not have the effect of preventing the orderly subdivision of other lands in the area in accordance with the provisions of this UDC.

#### **4. Intent of Subdivision Regulations and Development Standards**

1. A Subdivision Waiver may be granted only when in harmony with the general purpose and intent of the Subdivision Regulations and Development Standards so that the public health, safety and welfare may be secured and substantial justice done.
2. Financial hardship to the Applicant shall not be deemed to constitute undue hardship.

## **5. Minimum Degree of Variation**

No Subdivision Waiver shall be granted unless it represents the minimum degree of variation of requirements necessary to meet the needs of the Applicant.

## **6. Violations and Conflicts**

The Decision-Maker shall not authorize a Subdivision Waiver that would constitute a violation of, or conflict with, any other valid ordinance, code, regulation, master plan or the Comprehensive Plan of the City.

## **7. Falsification of Information**

- a. Any falsification of information by the Applicant shall be cause for the Subdivision Waiver request to be denied.
- b. If the Subdivision Waiver request is approved based upon false information, whether intentional or not, discovery of such false information shall nullify prior approval of the Subdivision Waiver, and shall be grounds for reconsideration of the Subdivision Waiver request.

## **3. ANALYSIS**

### **1. Undue Hardship Present**

Staff finds that the narrowness of the property makes it difficult to meet the requirement for two access points per Section 3.05.08(D)1. However the request to waive the Lot Dimensional Standards in Section 2.07.01 does not appear to have the same degree of hardship.

### **2. Consideration Factors**

Staff finds that the request to modify the dimensional standards in Section 2.07.01 for Lots 1 and 2 Block A will have minimal impact on the surrounding land uses and development. Approval would result in lots that are approximately six feet shorter than the requirement, but still substantially larger than the overall square footage requirement of 9,000 square feet per lot. Additionally, the Applicant has is proposing to mitigate the depth issue by side loading the garages.

The second request, to decrease the number of formal access points required in 3.05.08(D)1 to the subdivision from two to one will have more impact to the proposed neighborhood in terms of congestion, however, emergency access is proposed to mitigate issues with emergency ingress/egress.

## **3. Findings**

Staff finds that granting of the request to modify the dimensional regulations of Section 2.07.01 for Lots 1 and 2 Block A is not necessary to preserve the reasonable use of this property, or the ability for the property to be developed.

However, in order for the property to be platted as a residential subdivision it will require a waiver to Section 3.05.8(D)1 is necessary, as they cannot make the minimum intersection spacing work due to the narrowness of the property and the driveways of existing neighboring development.

#### **4. Intent of Subdivision Regulations and Development Standards**

The waiver requests to Sections 2.07.01 and 3.05.08(D)1 appear to be in harmony with the general purposes of the Subdivision Regulations.

#### **5. Minimum Degree of Variation**

The applicant is proposing the minimum degree of variation to serve the purpose of the Applicant.

#### **6. Violations and Conflicts**

If approved, there would not be a conflict of violation of code or ordinance.

#### **7. Falsification of Information**

At this time Staff is not aware of any falsification of information.

#### **4. FINANCIAL IMPACT**

If approved, this new subdivision would bring in permit fees and residential taxes. If denied the subdivision would have to be re-worked in a manner that would not require the requested waivers.

#### **5. STRATEGIC PLAN/GOALS**

BALANCED AND INTENTIONAL GROWTH

#### **6. STRATEGIC PLAN OBJECTIVES**

Balanced residential and commercial growth.

#### **7. PROS AND CONS**

Not applicable.

#### **8. ALTERNATIVES**

The Council may decline the recommendations of the Planning and Zoning Commission.

#### **9. REQUESTED ACTION / SUGGESTED MOTION / RECOMMENDATION**

Subdivision Waiver Staff has reviewed the requests for the Subdivision Waiver to Section 2.07.01 and 3.05.08(D)1 and recommends the following: 1. Approval of the request to modify the Minimum Access point requirements of Section 3.05.08(D)1 under the condition that the proposed emergency access easement through Carpenter Hill Elementary School is granted by the School District. 2. Staff finds that the request to waive dimensional standards per Section 2.07.01 for Lots 1 and 2, Block A does not provide the same benefit as the request to modify access requirements, though the proposed side loading of garages does mitigate potential adverse effects. PLANNING AND ZONING

COMMISSION ACTION: The Planning and Zoning Commission voted to approve the Subdivision Waivers as submitted.

**Attachments:**

[PP\\_22-19-Kali\\_Kate\\_-\\_Preliminary\\_Plat\\_-\\_1-29-2024 Final.pdf](#)

[Kali Kate - Lots 1-3 Exhibit.pdf](#)

[Exhibit C Subdivision Access Points.pdf](#)

[j5 3.5.24\\_CC\\_Slides.pdf](#)