

FILE NO.: Z-8937-A

---

NAME: Rainey Conditional Use Permit

LOCATION: 10000 Block of Old Arkansas Drive

DEVELOPER:

Russell Rainey  
1501 Rahling Road #1704  
Little Rock, AR 72223

ENGINEER:

Marlar Engineering Co.  
5318 John F. Kennedy Boulevard  
North Little Rock, AR 72116

AREA: 10.91 acres    NUMBER OF LOTS: 12 & 2 tracts    FT. NEW STREET: 1,890 LF

PROPOSAL: The applicant is requesting approval of a Conditional Use Permit to allow for construction of a wastewater and treatment system and a community recreational facility and community maintenance and storage building.

VARIANCE/WAIVERS: None requested.

---

1.    SITE LOCATION:

The property is located in the 10000 Block of Old Arkansas Drive. Adjacent to the property Old Arkansas Drive is a private street.

2.    COMPATIBILITY WITH NEIGHBORHOOD:

The property is located behind the gate of Old Arkansas Drive. Old Arkansas is a narrow unimproved chip-seal road with open ditches for drainage. The property is located outside the City limits of Little Rock but within the City's Extraterritorial Planning Jurisdiction. The area is primarily single-family with homes located on acreage. There is a PD-C zoned parcel located on Barrett Road to the east which was approved as an in-home beauty salon. The property north of Barrett Road has a significant slope from north to south. This property also has a significant slope from north to south. The timber on this site was recently removed.

As of this writing, staff has received a number of phone calls both informational and with concerns related to the request from area residents. All property owners located within 200-feet of the site along with the Coalition of West Little Rock Neighborhoods were notified of the public hearing.

3. ON SITE DRIVES AND PARKING:

As a separate item on this agenda the applicant is proposing a preliminary plat to allow the creation of twelve (12) lots and two (2) tracts to be developed on a private street. The subdivision will be served by a centralized wastewater collection treatment system. The subdivision will also share a private recreational facility and community storage building. Both of which necessitate the approval of a Conditional Use Permit.

4. SCREENING AND BUFFERS:

The development is proposed as a single-family subdivision with twelve (12) homes constructed on individual lots. The community pool is proposed internal to the development. The wastewater collection site is located in the eastern portion of the property. The maintenance building is located adjacent to the treatment system. The maintenance building is located approximately 60-feet from the eastern property line. The treatment site is located approximately FILE NO.: 70-feet from the eastern property line.

5. PUBLIC WORKS COMMENTS:

1. With site development, provide design of street conforming to the Master Street Plan. Construct street improvement to the proposed Old Arkansas Circle with the planned development. The street should be constructed to 24 feet in width and 6 feet paved shoulders, and open ditch within a 68 foot easement. The proposed street grade cannot exceed twelve percent (12%) slope without a variance from the Master Street Plan to increase to eighteen percent (18%). Show the proposed street elevation on a sketch grading and drainage plan.
2. Stormwater detention ordinance applies to this property. Show the proposed location for stormwater detention facilities on the plan.
3. If disturbed area is one (1) or more acres, obtain a NPDES stormwater permit from the Arkansas Department of Environmental Quality prior to the start of construction.
4. Street Improvement plans shall include signage and striping. Public Works must approve completed plans prior to construction.
5. Streetlights are required by Section 31-403 of the Little Rock code. Provide plans for approval to Traffic Engineering. Streetlights must be installed prior to platting/certificate of occupancy. Contact Greg Simmons, Traffic Engineering, 501.379.1813 for more information.

6. Provide a letter prepared by a registered engineer certifying the sight distance at the intersection(s) comply with 2004 AASHTO Green Book standards.

6. UTILITY/FIRE DEPARTMENT/COUNTY PLANNING/CATA/BUILDING CODES:

Wastewater: Outside the service boundary. No comment.

Entergy: Entergy does not object to this proposal. A single phase line currently exists along Old Arkansas Drive on the west side of the road leading up to the property. Contact Entergy in advance to begin discussions about service requirements.

Centerpoint Energy: No comment received.

AT & T: No comment received.

Central Arkansas Water:

1. All Central Arkansas Water requirements in effect at the time of request for water service must be met.
2. A water main extension will be needed to provide water service to this property.
3. Please submit plans for water facilities and/or fire protection system to Central Arkansas Water for review. Plan revisions may be required after additional review. Contact Central Arkansas Water regarding procedures for installation of water facilities and/or fire service. Approval of plans by the Arkansas Department of Health Engineering Division and the Little Rock Fire Department is required.
4. This development will have minor impact on the existing water distribution system. Proposed water facilities will be sized to provide adequate pressure and fire protection.
5. If there are facilities that need to be adjusted and/or relocated, contact Central Arkansas Water. That work would be done at the expense of the developer.
6. Additional fire hydrant(s) will be required. Contact the Little Rock Fire Department to obtain information regarding the required placement of the hydrant(s) and contact Central Arkansas Water regarding procedures for installation of the hydrant(s).
7. A Capital Investment Charge based on the size of meter connection(s) will apply to this project in addition to normal charges. This fee will apply to all connections including metered connections off the private fire system.

Fire Department: Maintain access, fire hydrants per code. Contact the Little Rock Fire Department for additional information. Provide a letter from the Maumelle Volunteer Fire Department indicating their knowledge of the proposed subdivision.

County Planning:

1. Provide Bill of Assurance.
2. Show distances and bearings to second land corner, provide state plane coordinates.
3. Provide Health Department approval of Wastewater treatment system.
4. Provide approval from Volunteer Fire Department.
5. Provide street cross sections for Old Arkansas Circle.
6. Provide profile for Old Arkansas Circle.
7. Label all street centerlines.
8. Provide storm drainage plan.
9. Old Arkansas Circle must comply with Pulaski County Master Road Plan for a local road. Provide 60-foot access easement width. Provide 28-foot pavement width for Old Arkansas Circle.
10. Provide for maintenance of Old Arkansas Circle in the Bill of Assurance.
11. Provide full set of construction plans for Old Arkansas Circle.
12. Front, rear and side setbacks do not comply with Pulaski County Subdivision and Development Code standards. 25-foot front and rear yard setback required and 8-foot side yard setbacks are required.
13. Provide SWPPP for Pulaski County review.
14. Pay \$33.00 review fee.
15. Provide means of stabilizing cut and fill slopes.
16. Provide water and wastewater design plans for Public Works review.
17. Name leftover vacant tract and common area. Provide for maintenance of both tracts in the Bill of Assurance.
18. Show both road edges of Old Arkansas Drive.

CATA: The site is not located on a dedicated CATA Bus Route.

Parks and Recreation: No comment received.

7. SUBDIVISION COMMITTEE COMMENT: (November 19, 2014)

Mr. Russell Rainey and Mr. Mike Marlar were present representing the request. Staff stated there were additional items necessary to complete the review process. Staff requested Mr. Marlar provide the linear feet of internal street, the source of water and the average lot size for the proposed lots in the general notes section of the proposed preliminary plat. Staff also requested Mr. Rainey provide a letter from the area volunteer fire department indicating their knowledge of the project and their ability to serve the proposed lots.

Public Works comments were addressed. Staff questioned if the street would be public or private and questioned if the development would be gated. Staff also requested Mr. Marlar provide a road profile for the proposed street. Staff stated the ordinance allowed a 12-percent street grade and a variance up to an 18-percent street grade could be approved by the Commission.

Staff stated in addition to the preliminary plat the applicant was requesting a Conditional Use Permit application as a separate item on the agenda (Z-8937-A) to allow the placement of the wastewater treatment system and the community buildings and pool. Staff questioned the status of the proposed wastewater treatment system. Mr. Marlar stated plans were being prepared and the owner had decided on the type for the proposed treatment system. He stated plans would be submitted to AEDQ for approval as well as the Arkansas Department of Health. He stated AEDQ normally would provide a respond and/or approval in 60 to 90 days and the Health Department response and approval was usually 45-days.

Staff noted the comments from the various other agencies. There were no more issues for discussion. The Committee then forwarded the item to the full Commission for final action.

8. ANALYSIS:

There were few outstanding technical issues associated with the proposed Conditional Use Permit request raised at the November 19, 2014, Subdivision Committee meeting. The request is for approval of a CUP to allow the placement of a community recreational area and maintenance/storage building and to place a wastewater collection and treatment system on the site to serve the proposed subdivision, a separate item on this agenda, (S-1737). The zoning ordinance defines water or sewage treatment plant and related facilities as a facility for the systematic collection and treatment and dispersal of water and waste materials. Within the Conditional Use Section of the zoning ordinance it states certain public and quasi-public uses due to their nature and impact on adjacent properties shall be permitted by right only in the industrial classifications established by the zoning ordinance. The uses may be permitted in all other classifications by approval of a conditional use permit application. Water or sewer treatment plant or ancillary facilities are specifically called out as needing a Conditional Use Permit.

The treatment facility will be sized to serve the new homes located within this subdivision. The developer must receive approval from the Arkansas Department of Health and the Arkansas Department of Environmental Quality prior to installation of the system. The applicant has indicated maintenance of the system will be the responsibility of the Property Owners Association. Monitoring and reporting will be provided to the various State agencies as required to be in compliance with State and Federal codes.

In addition within the R-2, Single-family Zoning District uses defined as needing approval of a Conditional Use Permit prior to development are a country club, golf course, swimming pool or other private recreational uses usually associated with or incidental to a social country club or subdivision association operated for mutual recreation for the members, and not as a business for profit. The placement of the subdivision recreational area and maintenance and storage building fall within this category.

Staff is supportive of the development as proposed. The applicant is seeking approval to allow for a treatment facility for this small single-family subdivision and to be allowed to place a community recreational area and maintenance and storage building. To staff's knowledge there are no outstanding technical issues associated with the request. Staff feels the placement of the amenities to serve the subdivision as proposed by the applicant is appropriate.

9. STAFF RECOMMENDATION:

Staff recommends approval of the request subject to compliance with the comments and conditions as outlined in paragraphs 4, 5 and 6 of the agenda staff report.

---

PLANNING COMMISSION ACTION:

(DECEMBER 18, 2014)

The applicant was present. There were registered objectors present. Staff presented the item with a recommendation of approval as well as approval of the associated variance request. Staff also presented a Conditional Use Permit application request in conjunction with the preliminary plat application request. Staff noted the two items were related and could be discussed at the same time but would require separate votes.

Mr. Bill Spivey addressed the Commission on behalf of the applicant. He stated the development was a single-family subdivision consisting of 12 lots. He stated 79-percent of the site would be designated as open or green space. He stated the variances were being requested to allow the most efficient development of the property. He stated the street was a private street constructed to comply with the existing access to the site which was also private. He stated the development would provide a state of the art treatment system to serve the new homes. He stated the system was permitted and monitored by the State and would be owned by the Property Owners Association. He stated the amenities provided would enhance the subdivision by providing common recreational opportunities.

Russell Rainey addressed the Commission as the developer. He stated his development was a state of the art development. He stated the homes would be developed based on green design. He stated the homes were proposed as homes for his family members and close personal friends. He stated the development was being constructed in such a manner as to allow for a buffer around the development for the adjacent residential properties.

Mr. Mike Marlar addressed the Commission as the project engineer. He stated the variances were being requested to allow for a centralized courtyard. He stated without the clubhouse and garden area located internal to the development the lots would fully comply with the minimum standards of the City ordinances. He stated traffic from the development would not be significant. He stated he had contacted the City's Traffic Engineer for his thoughts on traffic accessing Old Arkansas Road. He stated the City's Traffic Engineer did not feel the subdivision would not generate a great deal of traffic and Mr. Henry did not have concerns with the development or access via Old Arkansas.

Mr. Andy Davis addressed the Commission on behalf of the applicant. He stated his firm sold the treatment system that would be used for the subdivision. He stated the system was being used in several locations within the City's Extraterritorial Planning Jurisdiction as well as around the State.

Mr. David Meints addressed the Commission on behalf of the applicant. He stated his company surveyed the site to determine the best means of wastewater treatment for the development. He stated it was determined individual septic systems could not serve the new homes and a centralized system was the best means for treatment.

Mr. Scott Schallhourn addressed the Commission on behalf of the opposition. He stated his firm was representing a number of the homeowners in the area which were opposed to this dense development. He stated the homes previously looked over a forested area and now the property was cleared of timber and was a barren site. He stated there was not a silt fence in place to control runoff from the site. He provided the Commission with a graphic which indicated the development with a football field overlay and stated the development as proposed would fit into War Memorial Stadium and look very similar. He stated the subdivision did not fit the rural setting of the area. He stated the run-off from the treatment system would drain into the backyard of the homes to the south.

Mr. Schallhourn stated it was unclear if the developer had right of access to Old Arkansas which was a private street. He stated the developer had not approached the homeowner association to indicating if he was willing to pay into the maintenance of the road if access was granted. He stated Old Arkansas was a 14-foot chip seal road, very narrow and difficult for two (2) cars to pass. He stated Mr. Rainey had access to a public street on the southwest corner of his development. He stated he felt the developer should confirm access or provide a preliminary plat with access to the public street prior to the Commission approving the preliminary plat.

Dr. Andrijka Kwasny addressed the Commission in strong opposition to the request. She stated her home was located along the southern boundary of the development. She stated within the State of Arkansas waterways were not classified as creeks but as wet weather streams. She stated the wet weather stream which would provide outflow for the developments wastewater treatment system was located along her properties boundary. She stated with the current clearing silt fencing had not been installed and the creek and the crossing at Barrett Road had been eroded. She stated the site plan indicated containment areas which were located on her property. She questioned if these areas were clogged who would clean the areas. She stated pooling of water would only increase the erosion to her property and potentially cause health concerns. She stated the receiving stream was the Little Maumelle River. She stated the discharge from this plant would pass through Pinnacle State Park which was used for public recreation.

Mr. Don Thompson addressed the Commission in opposition. He stated if the subdivision was approved this would significantly change the character of the River Valley. He stated with the exception of one subdivision most of the homes in the area were developed on larger parcels containing 3 to 5 acres. He stated this area was homesteads for families. He stated the road was narrow, and difficult for two (2) cars to pass. He stated the development was not compatible with other development in the area. He stated the development would change the topography of the site significantly to allow the creation of a flat spot for the home sites. He stated the developer could build three (3) to four (4) homes on the site which was more in keeping with development in the area. He stated his concern was the drainage and runoff from this site to adjacent tributaries. He stated to allow this development the developer would have to move the mountain. He stated the area residents encouraged development of single-family homes just not at this intensity.

Mr. James Morgan addressed the Commission in opposition of the request. He stated his property was located on the south side of Barrett Road. He stated he had an organic vegetable farm on the property and questioned if he would be allowed to continue to grow organic vegetables if the development was approved. He questioned the discharge from the treatment plant and the impact the runoff would have on downstream conditions.

Mr. Scott Schallhour summarized the resident's concerns. He stated the development was too intense for the area. He stated the plat contained a number of variances which were not consistent with development of single-family per the City's ordinances. He questioned if the development had the right of access to the private street. He requested the Commission deny the R-2, Single-family plat as well as the Conditional Use Permit request for the wastewater treatment facility and community activities.

Mr. Bill Spivey addressed the Commission providing a letter from the area Volunteer Fire Department acknowledging the proposed project. Mr. Spivey also provided the permit request from the Arkansas Department of Environmental Quality concerning the permitting process for the wastewater treatment system. He provided a statement from Daniel Lanehart concerning the clearing of the site and the reasoning for the harvest



stating the trees were damaged by a 1983 wildfire and a number of the trees were unhealthy.

Mr. Spivey quoted a petition filed in 1979 which indicated the intent was a dedication of Old Arkansas Road as a public access with limited maintenance. He stated in 1988 a petition was filed listing the reason for closing the road. He stated within the petition it was stated no property owner would be denied access to any abutting property along the road. He stated Mr. Rainey's property abutted the road and he therefore should be allowed access to his property.

Mr. Spivey stated this subdivision was a small subdivision. He stated the request was straight forward in that the plat was proposed as a R-2, Single-family plat. He stated there were variances associated with the plat which allowed the development to lessen the footprint on the site and the abutting properties. He stated it was always more difficult to build your home when everyone else's home was already constructed.

There was a general discussion by the Commission concerning the development and the intensity of the development. Commissioner Berry questioned staff as to their change in recommendation from the previous request and the current request. Staff noted the previous request was for a multi-family development with eight (8) units of attached housing. Staff stated the current request was twelve (12) units of detached single-family housing developed per the subdivision ordinance. Staff noted there were variances requested which would allow for larger homes on the individual lots and flexibility in the placement of the new homes on these lots.

The Commission questioned staff if they felt access to the new lots was in place. Staff stated they felt access was provided via the order referenced by Mr. Spivey. Staff stated this was not a legal opinion because they had not researched the order or read the order but felt Mr. Spivey had quoted to the Commission something true and correct.

The Commission questioned stormwater detention and the time for consideration of stormwater runoff and detention. Staff stated the development was located in the County and the development would be reviewed by the County through their development standards. Staff stated the City's Land Alteration Ordinance did not extend outside the City limits and the developer was not in violation for removing the timber from the site.

There was no further discussion of the item. The Chair entertained a motion for approval of the conditional use permit as presented by staff. The motion carried by a vote of 7 ayes, 3 noes and 1 absent.