April 11, 2024

ITEM NO.: 1 FILE NO.: S-1844-F

NAME: Copper Run – Phases 7 and 8 – Preliminary Plat - Resubmission

LOCATION: South end of Copper Drive (south of Pride Valley Road)

1. **Staff Report and Minutes from the November 9, 2023 Planning Commission Meeting**

2. **Staff Update including information submitted by the applicant**

3. **Revised Preliminary Plat Document**

November 9, 2023

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NAME: Copper Run – Phases 7 and 8 – Preliminary Plat

LOCATION: South end of Copper Drive (south of Pride Valley Road)

DEVELOPER:

Layman Lane 6, LLC
12521 Kanis Road
Little Rock, AR 72211

OWNER/AUTHORIZED AGENT:

Layman Lane, LLC – Owner
Joe White and Associates – Agent

SURVEYOR/ENGINEER:

Joe White and Associates
25 Rahling Circle, Suite A-2
Little Rock, AR 72223

AREA: 27.459 acres NUMBER OF LOTS: 85 FT. NEW STREET: 5,120 LF

WARD: 5 PLANNING DISTRICT: 18 CENSUS TRACT: 42.07

CURRENT ZONING: R-2

VARIANCE/WAIVERS:

1. Advance grading variance
2. Variances for reduced building setbacks.
3. Variance to allow reduced lot area.

BACKGROUND:

On August 10, 2023 the Planning Commission approved a preliminary plat for Phase 6, Copper Run Subdivision. Phases 7 and 8 were removed from the agenda so that the applicant could meet with staff regarding the Master Street Plan alignment issue for a future roadway.

A. PROPOSAL/REQUEST/APPLICANT'S STATEMENT:

The applicant proposes to subdivide 27.46 acres of property into 85 lots for single family residential development. The subdivision will include phases 7 through 8 of the Copper Run residential development.

B. EXISTING CONDITIONS:

The property is undeveloped and wooded.

C. NEIGHBORHOOD NOTIFICATIONS:

All owners of property abutting the site and all neighborhood associations registered with the City of Little Rock were notified of the public hearing.

D. ENGINEERING COMMENTS:

1. Contact Planning and Development Dept., Engineering Division at 501-371-4817 or at 501-918-5348 for inspections of any work in the public right-of-way prior to placement of concrete or asphalt or for on-site clarification of requirements prior to commencing work. Failure to do so can result in removal of any improperly placed concrete or asphalt at the expense of the owner or contractor.
2. Any work involving one (1) or more acres of disturbed area requires a State of Arkansas NPDES permit. Contact the Arkansas Department of Environmental Quality, NPDES branch at 501-682-0744 for applications and information about General Stormwater Discharge Construction Permit #ARR150000.
3. A grading permit must be obtained prior to initiation of work. Grading permits are issued by the Planning and Development Dept. at 723 West Markham Street after approval of sediment and erosion control plans, grading and drainage plans, land survey, drainage study, and soil loss calculations per City's stormwater management and drainage manual. Contact Planning and Development Dept., Engineering Division at 501-371-4817 or at 501-918-5348 or Permits@littlerock.gov to schedule an appointment for issuance or to answer any questions. Permit cost is based on total project area at $100.00 for the less than ½ acre, $200.00 for ½ to 1 acre, and $200.00 for the first acre and $100.00 for each additional acre for project greater than 1 acre.
4. The Department requires three (3) phase sediment and erosion control (SEC) plans to be submitted for all construction projects showing best management practices (BMPs) for mitigating sediment runoff and erosion along with vegetation specifications for temporary and permanent soil stabilization. Phase 1 SEC plans shall show SEC BMPs during the stripping, clearing, grubbing, and rough grading of the site. Phase 2 SEC plans shall show SEC

BMPs during construction of utilities, buildings, roadway infrastructure and drainage infrastructure. Phase 3 SEC Plans shall show SEC BMPs for final grading, seeding, and landscaping of the site.

5. Sediment and Erosion Control plans shall also show the pertinent information as outlined in ADEQ ARR150000 Permit Part II section A-4-H (1-14) and Part II section A-4-I-2 (A-B).

6. Per City Rev. Code 29-99, stormwater detention for developments is required. Provide stormwater detention infrastructure to satisfy this requirement.

7. Per City Code 31-89 (5) for a preliminary plat, a storm drainage preliminary analysis is required showing drainage data for all watercourses entering and leaving the plat boundaries. The storm drainage analysis shall be prepared in sufficient detail to illustrate the proposed system's capability of accommodating storm events as required by the stormwater management and drainage manual. The preliminary plat shall also show drainage arrows indicating how drainage arrives at the site and drainage arrows how it leaves the site post development. Indicate where the storm sewer pipes and curb inlets are located within the development also. Additionally, provide profile and cross- sectional views of the detention structure outlet/spillway and detention calculations for the 25- and 100-year storm for the proposed detention pond/structure. Delineation of the drainage areas pre and post construction with respective discharges via rational method shall also be shown. The preliminary plat shall also contain all information as outlined in City Code Sec. 31-89 and 31-90.

8. Per City Code 31-434, a 50% maintenance bond for all street and stormwater infrastructure constructed within the public right of way shall be submitted to Department engineering staff prior to recording the final plat. Before the 50% maintenance bond can be accepted, a contract unit bid price for every street and stormwater infrastructure construction item within the public right of way shall be submitted to Department engineering staff for review and approval.

9. Per City Code 31-117, as built stormwater drainage infrastructure information/data shall be submitted prior to recording of the final plat. This information shall include but not limited to: pipe inverts, length of pipe, size of pipe, type of pipe, and type of inlets.

10. Per City Rev. Code 31-403 the Department requires street lighting plans to be submitted to the Department for review and approval before filing and recording of the final plat for the subdivision. The street lighting plans required shall include conduit and pull/junction box locations, street luminaire locations and mounting heights, wire sizes, current photometric data for the proposed fixtures, and subdivision street photometrics using the proposed fixtures that meet AASHTO Roadway Lighting Design Guide standards.

11. Department engineering staff is required to perform a final inspection of all street and stormwater infrastructure construction within the public right of

way. City maintenance of the street and stormwater drainage infrastructure within the public right of way cannot officially begin until final acceptance by Department engineering staff. This needs to be completed and accepted by Department engineering staff prior to recording of the final plat.

12. A drainage study showing all hydrologic calculations for the site and all hydraulic calculations for the proposed storm sewer pipe system, swales and ditches, detention ponds, outlet structures, and inlets is required per City's stormwater management and drainage manual. For final drainage report, sign, date, and seal the report per AR State Board of Professional Engineers and Professional Surveyors rules Article 12, Section B (1) (a). Provide engineer's certification statement saying this drainage report was conducted by yourself or directly under your supervision and attesting to the accuracy of the information within this report.

13. Street design standards shall comply with the latest version of the *AASHTO A Policy on Geometric Design of Highways and Streets*, City's Master Street Plan (2018), and City's Standard Details for street and drainage facilities improvements (2015).

14. Street stormwater and detention infrastructure design standards shall comply with the City's Stormwater Management and Drainage Manual (2016) including City Code Chapters 29, 30, and 31.

15. Street pavement, sidewalks, curb and gutter, curb inlets, junction boxes, accessible ramps, and storm sewer infrastructure shall comply with City's specifications for construction as outlined in City Code Chapters 30.

E. UTILITIES/FIRE DEPARTMENT/PARKS/COUNTY PLANNING:

Little Rock Water Reclamation Authority: Submit the wastewater infrastructure plans to LRWRA for review and approval.

Entergy: No comments received.

Summit Utilities: No comments.

AT & T: No comments received.

Central Arkansas Water: No comments.

Fire Department:

Maintain Access:

Fire Hydrants.

Maintain fire apparatus access roads at fire hydrant locations as per Appendix D of the 2021 Arkansas Fire Prevention Code Vol. 1 **Section D103.1 Access road**

width with a hydrant. Where a fire hydrant is located on a fire apparatus access road, the minimum road width shall be 26 feet, exclusive of shoulders.

Grade

Maintain fire apparatus access roads as per Appendix D of the 2021 Arkansas Fire Prevention Code Vol. 1 **Section D103.2 Grade**. **Fire apparatus access roads shall not exceed 10 percent in grade except as approved by the fire chief. If the grade exceeds 10 percent, approval will be denied and the applicant must submit request to be reviewed by Fire Chief for Approval.**

Loading

Maintain fire apparatus access road design as per Appendix D of the 2021 Arkansas Fire Prevention Code Vol. 1 **Section D102.1 Access and loading.** Facilities, buildings or portions of buildings hereafter constructed shall be accessible to fire department apparatus by way of an approved fire apparatus access road with an asphalt, concrete or other approved driving surface capable of supporting the imposed load of fire apparatus weighing at least 75,000 pounds.

Dead Ends.

Maintain fire apparatus access roads at dead end locations as per Appendix D of the 2021 Arkansas Fire Prevention Code Vol. 1 Section D103.4 Dead Ends. Dead-end fire apparatus access roads in excess of 150 feet shall be provided with width and turnaround provisions in accordance with Table D103.4. Requirements for Dead-end fire apparatus access roads.

Gates

Maintain fire apparatus access road gates as per Appendix D of the 2021 Arkansas Fire Prevention Code Vol. 1 Section D103.5 Fire apparatus access road gates. Gates securing the fire apparatus access roads shall comply with all of the following criteria:

1. Minimum gate width shall be 20 feet.
2. Gates shall be of swinging or sliding type.
3. Construction of gates shall be of material that allow manual operation by one person.
4. Gate components shall be maintained in an operable condition at all times and replaces or repaired when defective.
5. Electric gates shall be equipped with a means of opening the gate by fire department personnel for emergency access. Emergency opening devices shall be approved by the fire code official.
6. Manual opening gates shall not be locked with a padlock or chain and padlock unless they are capable of being opened by means of forcible entry tools or when a key box containing the keys to the lock is installed at the gate location.

7. Locking device specifications shall be submitted for approval by the fire code official.
8. Electric gate operators, where provided, shall be listed in accordance with UL 325.
9. Gates, intended for automatic operation shall be designed, constructed and installed to comply with requirements of ASTM F 2200.

One- or Two-Family Residential Developments.

As per Appendix D, Section D107.1 of the Arkansas Fire Prevention Code Vol. 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, and shall meet the requirements of Section D104.3.

Exceptions:

1. Where there are **more than 30 dwelling units** on a single public or private fire apparatus access road and al 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 Arkansas 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.

Fire Hydrants

Locate Fire Hydrants as per Appendix C of the 2021 Arkansas Fire Prevention Code. Section C101 – C105, in conjunction with Central Arkansas Water (Daniel Tull 501-377-1245) and the Little Rock Fire Marshal's Office (Capt. Tony Rhodes 501-918-3757, or Fire Marshal Derek N. Ingram 501-918-3756 Number and Distribution of Fire Hydrants as per Table C105.1.

Parks and Recreation: No comments received.

County Planning: No comments received.

F. BUILDING CODES/LANDSCAPE:

Building Codes: No comments received.

Landscape: No comments.

G. TRANSPORTATION/PLANNING:

Rock Region Metro: No comments received.

Planning Division: No comments.

H. ANALYSIS:

The applicant proposes to subdivide 27.46 acres of property into 85 lots for single family development. The subdivision will include Phases 7 through 8 of the Copper Run residential development as follows:

Phase 7 – 41 lots
Part of Tract O

Phase 8 – 44 lots
Part of Tract O

The proposed lots will range in size from 0.13 acre to 0.17 acre. There will be 5,120 linear feet of new streets with the proposed development. A 90 foot wide right-of-way will be dedicated along the south property line of the overall property to accommodate a future east/west minor arterial roadway, as shown on the City's Master Street Plan. A 30 foot wide secondary access will extend from Ironwood Way, between Lots 134 and 135, to the future east/west minor arterial roadway.

The applicant is requesting a variance to advance grade Phase 8 with the grading of Phase 7. The applicant notes that the advance grading of Phase 8 will reduce the amount of earthen material that will have to be hauled across city streets. Staff supports the advance grading request.

Sections 36-254(d) 1 thru 3 of the City's Zoning Ordinance requires minimum front building setbacks of 25 feet, minimum rear building setbacks of 25 feet and minimum side setbacks of 8 feet or 10 percent of the lot width. The applicant is requesting a variance to allow 20 foot front and rear setbacks and 5 foot side setbacks for the lots are wider than 50 feet. Staff is supportive of the requested variance, as the proposed setbacks are the same as those within the existing Copper Run Subdivision.

The applicant is also requesting a variance to allow a reduced lot area for several of the lots within Phases 7 and 8. Several of the interior lots (Lots 302-320 and 323-341) have proposed lots areas of 5,750 square feet. The minimum lot area required by doe is 6,000 square feet. The requested variance is a very minor decrease in lot area. Staff supports the variance request.

To staff's knowledge there are no outstanding issues associated with the proposed preliminary plat. Staff is supportive of the proposed preliminary plat. The continuation of the Copper Run single family subdivision should have no adverse impact on the surrounding properties.

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I. STAFF RECOMMENDATION:

Staff recommends approval of the requested preliminary plat, subject to compliance with the comments and conditions outlined in paragraphs D and E, and the staff analysis, of the agenda staff report.

PLANNING COMMISSION ACTION: (NOVEMBER 9, 2023)

The applicant was present, representing the application. Staff presented the item and a recommendation for approval as outlined in paragraphs D, E and the "staff analysis of the agenda staff report.

City Attorney, Thomas Carpenter, spoke concerning improvement district dispute.

Cindy Alberding, Ross Phillips, Bill Harnsberger, Cathianne Watkins and Hal Kemp all spoke in opposition. Concerns of access to private property, traffic issues, Master Street Plan questions and concerns about a tie-in fee to the Sewer district #237 were all raised.

There was a motion to approve the application. The motion was seconded. The vote was 3 ayes, 4 nays, 2 abstain, 1 absent and 1 open position. The application was denied.

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STAFF UPDATE: (FEBRUARY 8, 2024)

On November 9, 2023, the Planning Commission reviewed and discussed the Copper Run Phases 7 and 8 – Preliminary Plat. The Commission voted 3 ayes, 4 nays, 2 abstentions, 1 absent and 1 open position to deny the application.

Section 31-94(i) of the City's Subdivision Ordinance reads as follows:

> "(1) Reasons for denial of an application by the planning commission shall be placed in writing and mailed to the applicant within five (5) days from the public hearing on such application. Within thirty (30) days of the commission action, a denied application may be resubmitted to the staff for review of the required modifications and resubmission to the planning commission. The failure to resubmit an application within the prescribed period of time shall invoke procedures required for the filing of a new application."

On December 6, 2023 the applicant submitted an e-mail, including a revised/updated preliminary plat document, requesting resubmission to the Planning Commission.

Additional information submitted by the applicant's attorney, Don A. Eilbott, is as follows:

> "A new, significantly revised application has been submitted. There were three issues that presented at the prior meeting. We believe we have addressed and resolved each.

1) **Issue** – Would Mr. Hearnsberger's adjacent property become land locked with the approval of this application?

Response – We have discussed with Mr. Hearnsberger and have reached an agreement to allow proper access to his property. The access points are shown on our amended plat and application. Mr. Hearnsberger, to our knowledge, is satisfied and will not object or raise issues.

2) **Issue** – Sewer Improvement District 239 claims the City should not approve this application until 239 has resolution as to whether it is entitled to tie-on-fees.

Response – The issue has been resolved through language that is the same as the language as part of the approved Copper Run Phase 6. The applicant has an appeal pending to the Arkansas Court of Appeals, a bank issued irrevocable letter of credit posted for the entire amount of the judgment, and the City has the right to decline to issue building permits if we do not resolve with 239. There is no possible scenario where 239 is not get properly compensated, if entitled. The affirming of the Circuit Court decision would also be a confirmation of the Circuit Court's amount of tie-on fee per lot.

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3) **Issue** – Does approval of our application, a) alter or amend the Master Street Plan and; b) if so, does that require approval by the Board of Directors?

Response – We are following the guidelines and street placement given by Little Rock Planning and Development as we did with the approved Phase 6. We are requesting that any approval motion contain the following language:

> Approval as outlined in the "Staff Analysis," subject to the approval, if required, by the Board of Directors of the Plat to the extent that same alters or amends the Master Street Plan of the City of Little Rock.

This resolves both issues. It renders moot the question of whether the Planning Commission is or is not attempting to improperly amend the Master Street Plan.

PLANNING COMMISSION ACTION: (FEBRUARY 8, 2024)

The applicant requested a deferral to the March 14, 2024 Agenda. There was a motion to defer the application to the March 14, 2024 Agenda. The motion was seconded. The vote was 9 ayes, 0 nays and 2 absent. The application was deferred to the March 14, 2024 Planning Commission Agenda.

PLANNING COMMISSION ACTION: (MARCH 14, 2024)

The item was deferred to the April 11, 2024 agenda, as the applicant failed to notify the surrounding property owners.