



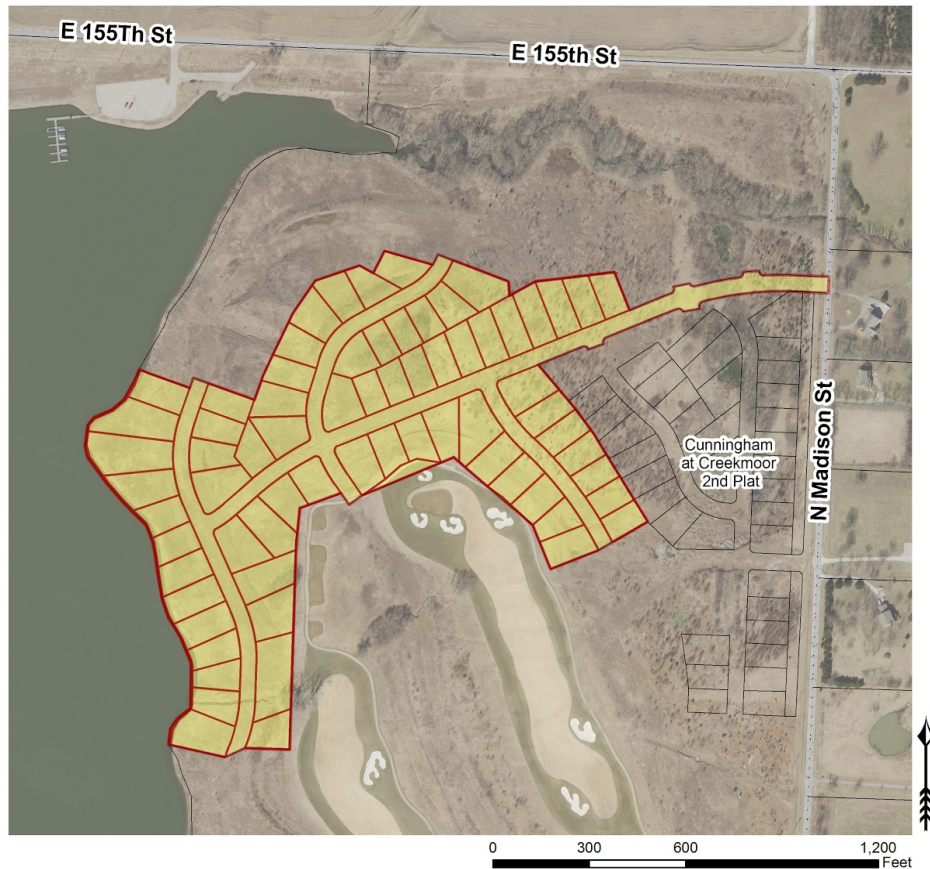
To: City Council
From: City Staff
Date: June 26, 2017
Re: **Case #17019 Vacation of
Cunningham at Creekmoor First Plat Lots 1
through 68, and Tracts A, B, C & D**

GENERAL INFORMATION

**Applicant/
Property Owner:** Cooper Land Development
903 N 47th Street
Rogers, AR 72756

Requested Action: To vacate the Cunningham at Creekmoor First Plat;
Lots 1 through 68, and Tracts A, B, C & D

Property Location:



Existing Zoning: “PUD” Planned Unit Development District

Growth Management Plan: The Future Land Use Map of the Growth Management Plan designates this property as appropriate for Low Density Residential Use.

Major Street Plan: The Major Thoroughfare Plan Map classifies N. Madison Street as a Major Collector

Legal Description:

Cunningham at Creekmoor First Plat, Lots 1 through 68, and Tracts A, B, C & D.

Advertisement: June 8, 2017 **Journal** newspaper

Public Hearing: June 26, 2017 City Council

Items of Record: **Exhibit 1. Notice of Publication**
Exhibit 2. Unified Development Code
Exhibit 3. Application
Exhibit 4. Growth Management Plan
Exhibit 5. Staff Report

Additional exhibits as presented during hearing

REQUEST

Applicant is requesting to vacate 28.62 acres of land, commonly known as the Cunningham at Creekmoor First Plat, Lots 1 through 68 and Tract A, B, C & D.

EASEMENT VACATION REQUIREMENTS

The following sections of the Unified Development Code are applicable to this application:

1. Section 470.170: Vacation of Streets, Easements or Plats
2. Section 470.170 (A) states:
“No vacation may take place unless the consent of the persons owning two-thirds of the property immediately adjoining thereto is obtained in writing.”
3. The Unified Development Code authorizes the Community Development Director to determine if it would be advisable to obtain the recommendation of the Planning and Zoning Commission concerning a vacation application prior to the required public hearing before the City Council.

4. The City Council may approve the application if it determines from the evidence that:
 - a. due and legal notice has been given by publication as required herein;
 - b. no private rights will be injured or endangered by the vacation;
 - c. the proposed vacation is not contrary to the Growth Management Plan or any other transportation plans for the City; and
 - d. the public will suffer no loss or inconvenience thereby and that in justice to the applicant or applicants the application should be granted.

PREVIOUS PLANNING ACTIONS ON OR NEAR THE PROPERTY

1. The Preliminary Plan and Memorandum of Understanding for Creekmoor were approved by City Council on January 26, 2004 and amended June 26, 2006 and July 24, 2006.
2. The Cunningham at Creekmoor First Plat was approved by the City of Raymore on August 25, 2008
3. The Cunningham at Creekmoor First Plat was recorded on February 24, 2009.

STAFF COMMENTS

1. Cunningham is a single-family normal detached neighborhood.
2. Lots in the Cunningham at Creekmoor First Plat were available for immediate purchase, with the understanding that the installation of infrastructure to serve the development would be delayed for a number of years, and that building permits would not be issued until such infrastructure was installed.
3. The purchase of lots in the Cunningham at Creekmoor First Plat was intended to provide the landowner with access to various amenities within the Creekmoor development, however, no lots were ever purchased.
4. The applicant has submitted an application for the final plat of the Cunningham at Creekmoor Second plat.

ENGINEERING DIVISION COMMENTS

Engineering staff submitted a memorandum recommending approval.

STAFF PROPOSED FINDINGS OF FACT

Under Section 470.170 of the Unified Development Code, the City Council is directed concerning its actions in dealing with a request to vacate a portion of a utility easement. Under 470.170 (C) (3) the City Council may approve the application if it determines from the evidence that:

- 1. due and legal notice has been given by publication as required herein;**

Legal notice of the request was published in The Journal on June 8, 2017.

- 2. no private rights will be injured or endangered by the vacation;**

There should be no private rights injured or endangered by the vacation. The applicant, Cooper Land Development, owns the property that surrounds the Cunningham at Creekmoor First Plat.

- 3. the proposed vacation is not contrary to the Growth Management Plan or any other transportation plans for the City; and**

The proposed vacation is not contrary to the Growth Management Plan or any other transportation plans for the City. The only major change to the transportation network for this area is the relocation of Bentwater Drive, identified as the main entrance into the Cunningham subdivision. That entrance has been relocated south as part of the Cunningham 2nd Plat to avoid a stream crossing and other topographical issues.

- 4. the public will suffer no loss or inconvenience thereby and that in justice to the applicant or applicants the application should be granted.**

The public will not suffer any loss or inconvenience plat vacation. Lots in the Cunningham First plat were platted and made available for immediate purchase for investment purposes, with the understanding that the installation of infrastructure to serve the development would be delayed for a period of years, and that housing construction would not be permitted until such time as infrastructure is installed. No lots have been purchased in this subdivision since that time. The applicant is continuing work to develop the 2nd and 3rd phases of the Cunningham subdivision

REVIEW OF INFORMATION AND SCHEDULE

<u>Action</u>	<u>Planning Commission</u>	<u>City Council 1st</u>	<u>City Council 2nd</u>
Public Hearing	n/a	June 26, 2017	July 10, 2017

STAFF RECOMMENDATION

City staff supports the request to vacate the Cunningham at Creekmoor First Final Plat. Lots in this subdivision were originally platted with the understanding that the installation of infrastructure to serve the development would be delayed for a number of years, and that building permits would not be issued until such infrastructure was installed. No infrastructure was ever installed and no lots have been purchased.

The location of Bentwater Drive, originally platted as the main entrance into the Cunningham subdivision has been relocated south to eliminate the need to cross a stream. Therefore, the vacation of the plat should not result in any loss or inconvenience to existing or future development surrounding the subject property.

City Staff recommends that the City Council accept the staff proposed findings of fact and approve Case #17019, request to vacate 28.62 acres of land, commonly known as the Cunningham at Creekmoor First Plat, Lots 1 through 68, and Tract A, B, C & D.