

# Location Map



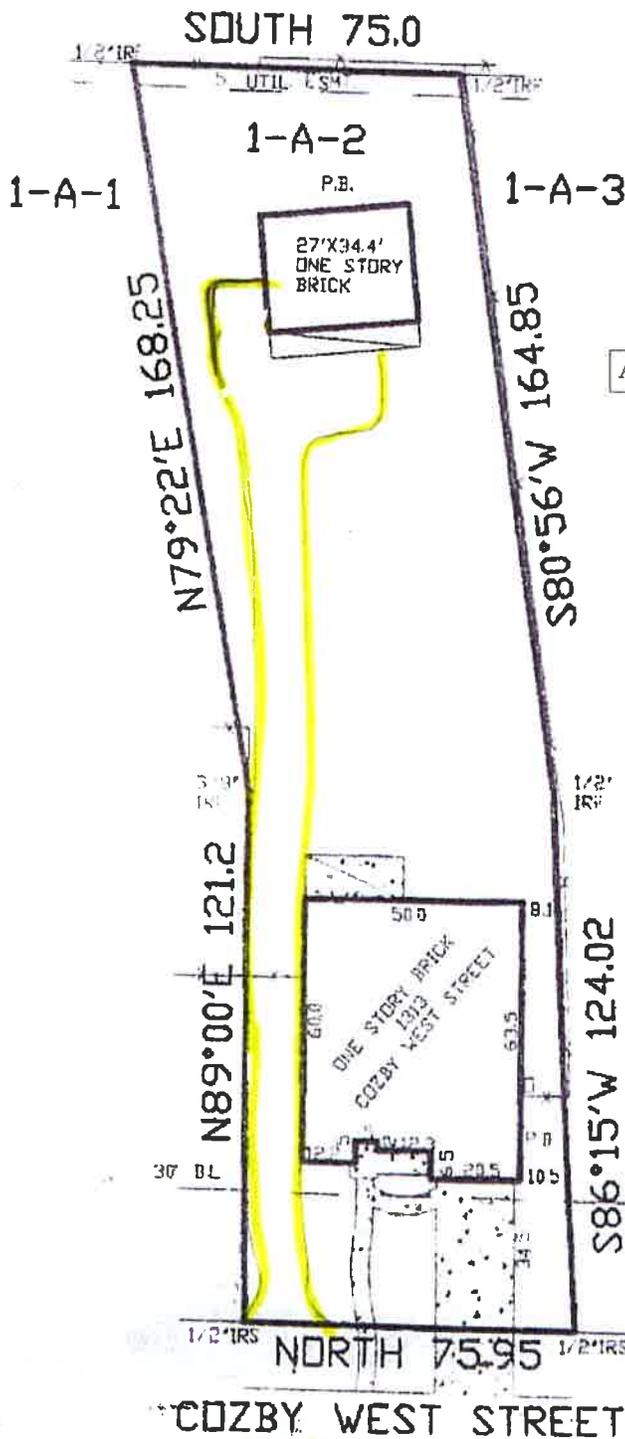
CUP-20-01 - 1313 Cozby St W.

# POGUE & WOODARD LAND SURVEYORS, INC.

## SURVEY PLAT

This is to certify that I have, this date, made a careful FIELD survey on the ground of property located at  
No. **1313 COZBY WEST STREET** in the city of **BENBROOK** Texas

Lot No. **1-A-2** Block No. **7** City Block No. \_\_\_\_\_  
of **BENBROOK LAKESIDE** on addition to the  
City of **BENBROOK, TARRANT COUNTY,** Texas, according to the **PLAT** thereof  
recorded in **VOLUME 388-145, PAGE 40 PLAT** Records **TARRANT** County, Texas



Approved for LTP/OTP

Digitally signed by Kevin Huber  
Reason: I am approving this document  
Date: 2020-01-08 17:12:06:00



# Attachment 3

## Chapter 17.80 - CONDITIONAL USES

### 17.80.010 - Purpose.

The purpose of the conditional use procedure is to allow for review of uses which would not be appropriate generally or without certain restriction throughout a zoning district, but which, if controlled as to the number, area, location or relation to the neighborhood would promote the health, safety, and welfare of the community. The procedure is intended to allow broad public review and evaluation of the proposed development and to ensure adequate mitigation of potentially unfavorable impacts.

### 17.80.030 - Review and evaluation criteria.

The conditional uses application shall be reviewed and evaluated using the following criteria:

- A. Conformance with applicable regulations and standards established by this Zoning Ordinance.
- B. Compatibility with existing or permitted uses on abutting, adjacent, or adjoining sites in terms of building height, bulk, scale, setbacks, open spaces, landscaping and site development, and access and circulation features.
- C. Potentially unfavorable effects or impacts on other existing or permitted uses on abutting sites, to the extent such impacts exceed those which reasonably may result from use of the site by a permitted use.
- D. Location, lighting, and type of signs and relation of signs to traffic control; external illumination; and adverse effect on adjacent properties.
- E. Safety and convenience of vehicular and pedestrian circulation in the vicinity, including traffic reasonably expected to be generated by the proposed use and other uses anticipated in the area considering existing zoning and land uses.

# Attachment 4

## Page 1 of 2

**REQUEST:** Conditional Use Application for a Subsidiary Dwelling as provided for in Section 10–B–b–8 and Section 22 of Ordinance Number 808, as amended

**SUBJECT PROPERTY:** Lot 1 – A – 2, Block 7, Benbrook Lakeside Addition

**LOCATION:** Planning Area “C”,  
1313 Cozby West Street

**AREA:** Approximately 21, 200 square feet

**ZONING DISTRICT CLASSIFICATION:** “B” One Family District

**LANDOWNER/ APPLICANT:** Steve and Gayle Wells  
1313 Cozby West Street

### **SUMMARY:**

The applicants request approval of a conditional use permit to use an existing 929-square-foot accessory building on Lot 1–A–2 (1313 Cozby West Street) as a subsidiary dwelling. The single-story accessory building is located near the rear of the lot. A building permit was issued September 13, 2005 for construction with plans describing the accessory building as a pool house. Some time after the final inspection of the permitted pool house by the Building Inspection Department, a change to a subsidiary dwelling occurred. The applicant purchased the property December 14, 2007. The application indicates the proposed use of the accessory building as a subsidiary dwelling is to accommodate the applicant’s widowed mother.

### **PLANNING REVIEW:**

The City Planning Staff has reviewed the Conditional Use Application in accordance with Section 22-C, Conditional Uses – Review and Evaluation Criteria, of Ordinance Number 808, as amended, and offers the following comments:

- Criteria 1: The conditional use application appears to conform to applicable regulations and standards of the Zoning Ordinance with the exception of off-street parking spaces behind the building line. Two concrete off-street parking spaces behind the building line should be required as a condition of approval.
- Criteria 2: The proposed subsidiary dwelling is compatible with existing and permitted uses on abutting sites regarding building height, bulk, scale, setbacks, and open space for the conditional use.
- Criteria 3: The proposed conditional use is for a residential activity and does not appear to have an unfavorable effect on existing or permitted uses on adjoining sites. The proposed subsidiary dwelling, when combined with the existing one-family dwelling on the approximately 21,200-square-foot lot, provides a compatible or lower density than surrounding sites and a lower density than typical residential areas meeting

density regulations of the Zoning Ordinance.

Criteria 4: No signs are proposed with the conditional use application.

Criteria 5: The subject property has frontage on Cozby West Street, a two-lane, 28-foot-wide local street. The proposed subsidiary dwelling combined with the existing one-family dwelling on the property would not generate traffic that would be detrimental to the safety and convenience of vehicular and pedestrian traffic in the area or have a detrimental effect when combined with other existing or anticipated uses in the area. The proposed conditional use will not exceed the capacity of the roadway serving the property.

The City Planning Staff has reviewed the Conditional Use Application and offers the following comments:

1. Any approval of the proposed conditional use applies only to the authorization of the otherwise nonconforming use. All construction must be in conformance with all Building Codes, the Zoning Ordinance, and all other applicable codes and regulations.
2. When combined with the existing single-family house on the site, the subsidiary dwelling would create a density of 2.05 dwelling units per acre, compared with a typical density of approximately 3.5 dwelling units per acre in "B" District.
3. The Zoning Ordinance provides that a Conditional Use Permit automatically expires with a change of ownership of the land unless the approval includes the determination that it is in the best interest of the City that the approval transfer to subsequent landowners. Frequently, a conditional use involves a use in an existing structure that has other permitted use potential. However, it is not unusual that the use be transferable, or run with the land, rather than alter the structure with a change in ownership. It appears the transfer of the conditional use to future owners would be appropriate and in the best interest of the City.

### **RECOMMENDATION:**

Staff recommends that the Planning and Zoning Commission approve Conditional Use Application Z-08-01 for Steve and Gayle Wells to authorize the proposed subsidiary dwelling use of the existing accessory building in accordance with the application on Lot 1-A-2, Block 7, Benbrook Lakeside Addition (1313 Cozby West Street) subject to:

1. conformance with all elements of the Conditional Use Application,
2. conformance with all "B" District regulations with the exception of the Conditional Use and conformance with all other applicable codes, regulations, and ordinances.
3. the addition of two off-street parking spaces behind the building line, and
4. the Conditional Use is to run with the land.

The Commission may want to consider additional conditions to approval, as it may deem appropriate.

Abstain: Mr. Dawson

Motion carried 3 – 0 – 1

### III. OATH OF OFFICE

The oath of office was taken by Robert Pesce for Place 7 of the Planning and Zoning Commission.

### IV. REPORTS OF CITY STAFF

#### A. COMPREHENSIVE PLAN AMENDMENTS

##### **CP – 08 – 01 Consider update of Section 17 – Capital Improvements of the Comprehensive Plan**

Chairman Marshall introduced the item and asked for a report from Staff.

Dave Gattis, Deputy City Manager, said that, the Commission conducted a public hearing and considered the initial draft of the update of the Capital Improvements Plan (CIP) which is Section 17 – Capital Improvements of the Comprehensive Plan last month at the January 10, 2008 meeting. Mr. Gattis said the Commission had requested that Staff annotate where specific changes had been made and that is being presented to the Commission this month.

Staff recommends that the Planning and Zoning Commission recommend that the City Council adopt the revised Section 17 – Capital Improvements as part of the Comprehensive Plan.

The Chair asked if the Commission had any comments, questions, or a motion.

Motion by Mr. Dawson that the Planning and Zoning Commission recommend that the City Council adopt the revised Section 17 of the Comprehensive Plan. Second by Mr. Pesce. The Chair called the question.

Vote on the Motion:

Ayes: Mr. Pesce, Mr. Weaver, Mr. Dawson, Mr. Wilson, and Dr. Marshall

Noes: None

Motion carried 5 – 0

#### B. ZONING

##### **Z – 08 – 01 Consider Conditional Use Application for a Subsidiary Dwelling as provided for in Section 10 – B – b – 8 and Section 22 of Ordinance Number 808, as amended, Lot 1- A – 2, Block 7, Benbrook Lakeside Addition (1313 Cozby West Street) PUBLIC HEARING**

The Chair introduced the item and asked for a report from the applicant.

Steve Wells, 1313 Cozby West Street, said he is the owner and applicant. Mr. Wells said he is requesting the conditional use permit for a subsidiary dwelling for an approximately 1,000 square foot house at the rear of his lot. He said his mother would occupy the house.

The Chair asked for any comments or questions from the Commission. There being none, the Chair asked for a report from Staff.

Ed Gallagher, City Planner, said the Z-08-01 conditional use application is presented by Steve and Gayle Wells for a subsidiary dwelling on their property at 1313 Cozby West Street. The proposed subsidiary dwelling would be a second dwelling unit on the "B" One Family District zoned, Lot 1-A-2 in Block 7 of Benbrook Lakeside Addition.

A subsidiary dwelling is a separate living quarters with separate kitchen facilities which is in addition to the principal dwelling unit on a single-family zoned lot. Most typically, a subsidiary dwelling is a garage apartment or guest house. A conditional use is a use that would not routinely be permitted in a particular district, but upon specific evaluation by the Commission, can be approved if determined to be compatible with other permitted uses in the area.

Mr. Gallagher said the proposed subsidiary dwelling is an approximately 929-square-foot, existing single-story accessory building near the rear of the lot. In September 2005, a building permit was issued to the previous landowner for the construction of the building as a pool house. The Z-08-01 application is to authorize a subsidiary dwelling use in the previously permitted pool house. The application indicates the subsidiary dwelling is to better accommodate the applicant's widowed mother.

The staff reviewed the application in accordance with the review and evaluation criteria specified in the Zoning Ordinance for compatibility with existing and permitted uses in the area. Regarding Criteria 1, the application indicates conformance with applicable regulations and standards of the Zoning Ordinance except off-street parking provisions for the proposed conditional use. Mr. Gallagher said two concrete off-street parking spaces behind the building line should be a condition of approval.

Compared with Criteria 2, the proposed subsidiary dwelling is compatible with existing and permitted uses on abutting sites regarding building height, bulk, scale, setbacks and open space for the conditional use. Regarding Criteria 3, the proposed conditional use is a residential activity and does not appear to have an unfavorable effect on existing or permitted uses on adjoining sites. Mr. Gallagher said the proposed subsidiary dwelling, when combined with the existing one-family house on the approximately 21,200-square-foot lot, provides a compatible or lower density than surrounding sites and a lower density than typical residential developments meeting density standards of the Zoning Ordinance.

Mr. Gallagher said Criteria 4 addresses signs and none are proposed with the application. Criteria 5 addresses the safety and convenience of vehicular and pedestrian circulation expected with the conditional use. The property has frontage on Cozby West Street, a two-lane, 28-foot-wide local street. Traffic generated by the proposed conditional use, combined with the existing single family use, will not generate traffic that would be detrimental to area traffic and will not exceed the capacity of the roadway serving the site.

In addition to the review and evaluation criteria specified in the Zoning Ordinance, the staff notes that the establishment of the conditional use must be in compliance with all Building Codes, the Zoning Ordinance, and other applicable codes and regulations.

Mr. Gallagher said the Zoning Ordinance provides that a Conditional Use Permit automatically expires with a change of ownership of the land unless the approval includes the determination that it is in the best interest of the City that the approval transfer to subsequent landowners. Frequently, a conditional use involves a use in an existing structure that has other permitted use potential. However, it is not unusual that the use be transferable, and run with the land, rather than alter the structure with a change in ownership. Mr. Gallagher said it appears that the transfer of the conditional use to future owners would be appropriate and in the best interest of the City.

Staff recommends that the Planning and Zoning Commission approve Conditional Use Application Z-08-01, presented by Steve and Gayle Wells, to authorize the proposed subsidiary dwelling use in the existing accessory building in accordance with the application on Lot 1-A-2, Block 7, Benbrook Lakeside Addition (1313 Cozby West Street) subject to:

1. conformance with all elements of the Conditional Use Application,
2. conformance with all "B" District regulations with the exception of the Conditional Use and conformance with all other applicable codes, regulations, and ordinances,
3. the addition of two off-street parking spaces behind the building line, and
4. the Conditional Use is to run with the land.

Mr. Gallagher said the Commission may want to consider additional conditions to approval as it may deem appropriate.

The Chair asked for any comments or questions from the Commission. There being none, the Chair opened the public hearing at 7:48 p.m. and asked if anyone wanted to speak for or against the item.

Rob Shear, 1317 Cozby West Street, said his concern is that the properties would be sold separately in the future or used as a rental property.

Mr. Gallagher said the subject property is zoned single-family and would not meet the Zoning Ordinance if subdivided.

Mike Ford, 212 Cozby South Street, is directly behind the subject lot and he would like to know if the next owner would have to go through the same conditional use process, or would the permit run with the land. Mr. Ford said he is concerned that future owners would rent out the subsidiary dwelling.

The Chair asked for any other speakers. There being none, the Chair closed the public hearing at 7:52 p.m. and asked for any comments, questions, or a motion from the Commission. Discussion followed between the Commission and Staff.

Motion by Mr. Wilson that the Planning and Zoning Commission approve the Conditional Use Application, Z – 08 – 01, as recommended by Staff except that the approval not run with the land but would expire when the property changed owners. Second by Mr. Pesce.

Following discussion, Mr. Wilson amended the motion to include a stipulation that the required addition of the two off-street parking spaces behind the building line be constructed within 120 days of the approval. Mr. Pesce agreed to the amendment. The Chair called the question.

Vote on the Motion:

Ayes: Mr. Pesce, Mr. Weaver, Mr. Dawson, Mr. Wilson, and Dr. Marshall

Noes: None

Motion carried 5 – 0

### C. SUBDIVISION PLATS

P – 08 – 01

**Consider preliminary plat of Sproles Addition, 5.0394 acres out of the J.M. Evans Survey Abstract Number 466 and the Joel Fish Survey Abstract Number 1876 (southeast corner of Benbrook Boulevard and Sproles Drive) PUBLIC HEARING**

The Chair introduced the item and asked for a presentation by the applicant.

Kristy Elliott said she is the project manager for QuikTrip, 14450 Trinity Boulevard, Fort Worth, Texas, who is the agent on the preliminary plat application. Ms. Elliott said she is representing the owner and applicant and they are proposing to sub-divide the five-acre property into four lots. Three lots would front on Benbrook Boulevard and are zoned for commercial use and the fourth lot fronts on Sproles Drive and is zoned residential.

Ms. Elliott said the three lots on Benbrook Boulevard would have a mutual access drive that has been conceptually approved by TxDOT. She said there would also be a shared drive on Sproles Avenue at the rear of the three commercial lots. Ms. Elliott said they are correcting the location of the drive on Sproles Drive to align with McKinley Street as requested by Staff.

The asked Chair for any comments or questions from the Commission. There being none, the Chair asked for a report from Staff.

Mr. Gallagher said the preliminary plat of Sproles Addition involves 5.0394 acres in the Evans and Fish Surveys at the southeast corner of Benbrook Boulevard and Sproles Drive. The property is split zoned with the approximately 3.6-acre frontage on Benbrook Boulevard zoned "HC" Highway Corridor Commercial District and the approximately 1.4-acre balance with frontage on Sproles Drive zoned "D" Multiple Family Residential District. Mr. Gallagher said the preliminary plat material was prepared by SCI Survey Consultants of Plano and Glenn Engineering of Irving and presented on behalf of the property owners, Jerry and Ann Dittrich.

Three lots are shown in the commercial area parallel to Benbrook Boulevard and are connected with mutual access easements connecting with the shared access on the adjacent Tractor Supply site and Sproles Drive. The three commercial lots are shown to share a single driveway connection to Benbrook Boulevard.

Mr. Gallagher said the irregular shaped residential portion of the plat area is a single lot that has frontage only on Sproles Drive and is the relocation site of the historic Sproles House that was built in 1934 on the current commercial portion of the five acres. The residential lot also includes