

**CITY OF CREDIT RIVER
SCOTT COUNTY
STATE OF MINNESOTA**

RESOLUTION NO. 2023-20

**A RESOLUTION DENYING A VARIANCE RELATED TO A TRAIL IN RANCH OF
CREDIT RIVER SECOND ADDITION**

WHEREAS, the City of Credit River is a Minnesota Municipal Corporation, duly organized and authorized to conduct its affairs under the laws of the State of Minnesota; and

WHEREAS, William A. Feldman, (the “Developer”) is the owner of certain real property located in the City of Credit River, State of Minnesota, (the “Subject Property”) legally described as follows:

The East Half of the Northeast Quarter (E1/2 of NE1/4) of Section 29, Township 114, Range 21.

And

Also including the East Half of the East Half of the Southeast Quarter (E1/2 of E1/2 of SE1/4) of Section 29, Township 114, Range 21, EXCEPTING therefrom that part platted as TERRITORY FIRST ADDITION.

and

Outlot A, THE RANCH OF CREDIT RIVER, according to the recorded plat thereof, Scott County, Minnesota.

and

The South sixty-six (66) feet of that part of the Southwest Quarter (SW1/4) of Section 28, Township 114, Range 21, lying West of the West line of Lot 2, Block 1, Zweber Acres, as extended, Scott County, Minnesota.

WHEREAS, the Developer has requested approval of a variance to permit the developer to not install a trail as required by the Subdivision Regulations and as shown in the Comprehensive Plan; and

WHEREAS, the Planning Commission of the City did on June 15, 2023, conduct a public hearing in relation to the Applicant’s request for a variance; and

WHEREAS, the Planning Commission of the City did on June 15, 2023 recommend denial of the variance to the City Council; and

NOW, THEREFORE, BE IT RESOLVED, the City Council has considered the proposed application for a variance and it makes the following *findings of fact*:

Review Process

1. Following appropriate published and mailed notice, a public hearing was held by the Planning Commission on June 15, 2023.
2. The Planning Commission, following receipt of public comments and deliberation on the proposed Application, recommended denial of the Application at their June 15, 2023 meeting.
3. These findings and resolutions are based upon the Staff Memo dated June 29, 2023, the applicant's narrative, and all documents referenced in the Staff Memo, the recommendation of the City Planning Commission, and such additional information and documentation which is presented to the City Council on July 5, 2023 will be the subject of a separate list prepared by the City Planner following the July 5, 2023 meeting.

Subject Property Zoning

1. The property is currently zoned Rural Residential.

Comprehensive Plan

1. The Future Parks and Trails Map of the City's Comprehensive Plan identifies a trail connecting from the Territory neighborhood through the Subject Property to a search area for a future park located north of RANCH OF CREDIT RIVER.

Subdivision Regulations

1. The Subdivision Regulations require the following:
 - a. **Sidewalks and Trails.** Required sidewalks and trails shall be installed at the time a street is constructed. (Sub Regs. 945.020 Subd. 18)
 - b. A sidewalk or trail shall be installed along all arterial and collector roadways consistent with the Town's Comprehensive Plan. In urban areas, sidewalks shall be installed on one side of all local streets and shall extend to the turnaround portion of a cul-de-sac street. Construction of both sidewalks and trails shall be as specified in the City's Engineering Design Standards. (Sub Regs. 945.030 Subd. 1)
 - c. **Trails.** Project proponents shall be responsible for developing and constructing at their sole expense a pedestrian circulation system subject to town approval which connects to existing trail and sidewalk systems and is designated to interconnect the land being subdivided to the balance of the community. Trails

shall be provided in a manner that connects with existing or proposed trails as generally shown in the comprehensive plan, as amended from time to time. At the discretion of the City Council, trails may be either publicly or privately owned and maintained. (Sub Regs. 955.020 Subd. 2)

2. The plans prepared by the Applicant do not meet the requirements of the Subdivision Regulations as the trail is not provided for within the preliminary plat.

BE IT FURTHER RESOLVED, the City Council makes the following findings relative to the standards contained in Section 2-3-1 of the City of Credit River's Zoning Ordinance:

1. Ordinance Requirement: Granting of the variance will not be in conflict with the Comprehensive Plan.
Finding: This variance is in conflict with the Comprehensive Plan as it shows a trail on this property connecting the existing Territory trails and a park search area.
2. Ordinance Requirement: Exceptional, unique, or extraordinary circumstances apply to the property which do not generally apply to other properties in the same zoning district or vicinity, and result from lot size or shape, topography, or other circumstances over which the owners of property since the enactment of this Ordinance have had no control.
Finding: There are no unique circumstances except that the City currently has a limited trail network in the City.
3. Ordinance Requirement: The literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Ordinance.
Finding: Not applicable.
4. Ordinance Requirement: That the special conditions or circumstances do not result from the actions of the applicant.
Finding: The applicant is asking to delay or remove the construction of a trail, so the actions are a result of the applicant's request and preferred design of the neighborhood.
5. Ordinance Requirement: That granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to owners of other lands, structures, or buildings in the same district.
Finding: If this variance is granted, there will not be a way in the future to connect a trail between the existing trail system and the future park. Even if land is preserved for a trail system, it will be difficult to install a trail system into a neighborhood after the fact as directly impacted property owners will typically feel that it changes their property after the fact. When a trail is installed up front, the community is typically more accepting of the trail, and they tend to be quite frequently used. Granting the variance would provide the Developer with a cost savings that other Developers that must comply with that ordinance would not obtain.
6. Ordinance Requirement: The variance requested is the minimum variance which would alleviate the practical difficulty.

Finding: There is no practical difficulty that has been noted by the applicant other than that they do not want the trail.

7. Ordinance Requirement: The variance would not be materially detrimental or will not essentially alter the character of the property in the same zoning district.

Finding: Granting the variance would not alter the character of the area but would be materially detrimental to the City's ability to install a trail later.

8. Ordinance Requirement: Economic considerations alone do not constitute practical difficulties.

Finding: Economic considerations are the predominant basis for the variance. It would reduce current costs to the developer and HOA.

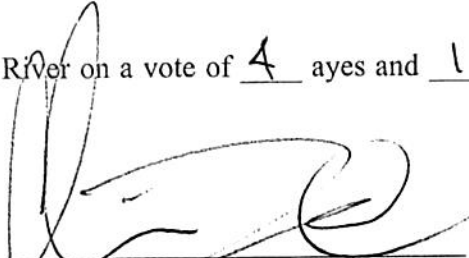
BE IT FURTHER RESOLVED, the City Council makes the following findings relative to the practical difficulties standards:

1. The proposed use is not a reasonable manner that is not permitted by the zoning ordinance. The City via its Comprehensive Plan has determined that trails are a valuable public amenity and the granting of this variance would impose a gap in a planned local trail segment.
2. The plight of the landowner is not due to circumstances unique to the property not created by the landowner. The circumstances are due to the applicant's desire to not include a trail within this neighborhood, as well as their desire to not have the trail owned and maintained by the HOA.
3. If granted, the variance would alter the essential character of the local trail connection, but not necessarily alter the character of the Ranch neighborhood. The development would look similar to some other rural residential neighborhoods that have no pedestrian connections.
4. Economic considerations alone are the basis for the proposed variance. The applicant does not desire to have the trail be maintained by the HOA established for this neighborhood, nor do they wish to construct it.

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NOW, THEREFORE, BE IT RESOLVED the variance is hereby denied based on the findings recorded in this Resolution.

Adopted by the City Council of the City of Credit River on a vote of 4 ayes and 1 nays effective on the 5th day of July, 2023.



Chris Kostik, Mayor

Attested:

Karen Donovan
Karen Donovan, City Clerk