

# The Bandera PROPHEET

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County commissioners double lot size requirement for exempt wells, deny final plat approval for pending subdivision

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“As soon as they gave us the science, we were prepared to do it,” Bandera County Judge Richard Evans said, regarding revisions made to the county’s Subdivision and Land Development Regulations. Commissioners on Thursday unanimously approved requiring water availability studies prior to considering preliminary plans; increasing the minimum lot size from two to five acres for lots served by a public water supply; and doubling the minimum lot size from five to 10 acres for domestic/livestock wells.

The changes are effective immediately.

The new 10-acre requirement follows the lead of the Bandera County River Authority and Groundwater District, whose rule will take effect Sept. 1.

The change will not affect lots in already-approved platted areas, or wells already drilled - those will be grandfathered. Any new well drilled on a tract less than 10 acres will require a permit, and the owner will be mandated to submit an annual report with monthly usage information. The wells will be monitored by and subject to BCRAGD drought restriction protocols. Well owners who fail to comply will face penalties, including fines.

“After today, any plat process started falls under these rules. Anything that’s in the works before today is under the old rules. We can’t change the game midway - if you’re in the pipeline already, the old rules apply,” Evans said.

Numerous members of the community spoke during the Aug. 25 public forum, asking commissioners to raise the minimum acreage requirements and postpone approval of pending developments until water availability was proven.

“We’re a week away from Sept. 1, and the River Authority clearly said 10 acres. Three more subdivisions are trying to slip through before the deadline. Please postpone it. Please wait until Sept. 1. Please get our county rules in sync with the River Authority,” Patricia Smith said.

“The more wells you tap, the fewer springs we have. Look at the Medina River. Look at the Guadalupe River. They aren’t running,” George Sharman said.

“The Bandera County River Authority and Groundwater District has identified some very serious concerns about these subdivision plats due to water availability issues,” Anne Schneider, of the Bandera Canyonlands Alliance, said.

BCRAGD Executive Director David Mauk said, speaking in terms of water availability, 10 acres is the minimum lot size the district could recommend.

“We’ve got to have spacing of these wells,” Mauk said, referencing the proposed Grand View Ranch subdivision on FM 470 that he said would have a 106-foot drawdown into the aquifer. “We have a Desired Future Condition...that’s a 30-foot drawdown over 50 years. Every single subdivision is busting that DFC... We have to look at protecting the water - not only for the applicant, but also for the people already here.”

Engineer Kyle Chapman, who performed the water availability study for Grand View, said 96 lots, each with a three-bedroom home, would have a 106-foot drawdown over a decade, however he claimed the model did not account for the aquifer recharge.

“This subdivision at 10 and 30 years will use about a quarter of the available water beneath them in the Middle Trinity (Cow Creek Aquifer),” Chapman said. “This is a very sustainable development.”

Mauk replied the aquifer could not sustain that many wells. He said he understood the balance of property rights and development, however considering the drought, the water is not there.

“They did an initial test and it wasn’t satisfactory. I just can’t get past the drawdown,” Mauk said.

Evans said the court relies on BCRA GD to determine whether there is enough water.

“You provide the science,” Evans said to Mauk. “You’re telling us that we should not approve the five-acre lots platted.”

“Ten acres minimum,” Mauk said. “That’s my opinion.”

The motion to deny final plat approval was unanimous.

Commissioners considered a preliminary plan for a second subdivision on Winans Creek. Mauk said although developer Dan Mullins, of Southerland Communities, had done his due diligence and provided all required information, he maintained his stance.

The Winans Creek Ranch preliminary plan calls for 176 five-plus-acre lots. Mullins, who developed the Bridlegate and Clearwater Canyon subdivisions, said each land deed is restricted and every well would be permitted, with a maximum of 800 gallons pumped per day.

“There is a note on the plat that says each lot must be in accordance with [BCRA GD], will be metered and monitored by [BCRA GD], and subject to groundwater conservation measures,” Mullins said, adding the deed restrictions also limit irrigated areas per lot to 5,000 square feet.

Mullins said if each tract was increased to 10 acres, the number of lots would decrease to 90 - each with exempt wells. Mauk said while permitted wells would potentially pump less than exempt wells, the spacing between them needed to be expanded.

“We have to get space for the cone of depression,” Mauk said. “I appreciate what Dan’s doing, but I believe it needs to be at least 10 acres. We can’t have this many straws in the aquifer.”

Further, Mauk said, the development’s drawdown is 85 feet, deeper than the DFC.

“I can’t get past 85 feet. I just can’t,” Mauk said.

County Attorney Janna Lindig, speaking as a citizen, said she lives on 16 acres across from Winans Creek.

“That area is full of springs. The springs are going dry...Right now, my well water is different. It is not good,” Lindig said, adding her well is

more than 400 feet deep. “One of the things that keeps Winans Creek running is the spring. If you do anything that will interfere with those springs, it’s going to affect Winans Creek. And it will with 176 lots.” Commissioners agreed to approve the preliminary plan, with the understanding that the developer will either come back with an acceptable water availability study, or increase each lot size to 10 acres.