

## Legislation Text

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File #: 17-814, Version: 1

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Presenter

*Christopher Looney, Planning and Community Development Director  
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**SUBJECT:**

Discuss and reconsider a waiver from the sidewalk requirement for the replat of a portion of Lots 13, 14, 18, and 19, City Block 1015, Establishing Lots 18R and 19R, City Block 1015, that was previously voted on by the City Council on November 27, 2017.

**BACKGROUND / RATIONALE:**

This item has been placed on the agenda for reconsideration at the request of Mayor Pro Tem Peters.

**Reconsideration Procedure:**

At their meeting on November 27, 2017, City Council voted to waive the requirement for a sidewalk adjacent to Hill Avenue, and to require the cost of construction of a 4-foot wide public sidewalk adjacent to S. Academy Avenue be escrowed (5-2-0).

In order to reconsider the item:

1. A Councilmember who originally voted to approve the original item may make a motion to reconsider the item. One of the two that voted against the item may not make the motion. The motion must have a second, and be approved by a majority vote.
2. The City Council can then reconsider the original item on which a vote was originally taken which in this case is a sidewalk waiver item.

Section 2-38(d) of the Code of Ordinances states: "The motion to reconsider shall be used to reopen discussion for a vote on an item already acted upon. Reconsideration may only occur at the same meeting, or at the next meeting after the one at which the original action occurred. A motion to reconsider may only be made by a member who voted on the prevailing side of the original action. It requires a second, is not amendable, is debatable and requires a majority vote for adoption. The effect of the adoption of the motion to reconsider is immediately to place before the members again the item on which the vote was originally taken. Reconsideration of an item at a subsequent meeting requires the item to be placed on the agenda for that meeting."

**Case No.:** PL-17-120

**Council District:** 6

**Owners/Applicants:** Brewer Investment Properties (Jesse W. Brewer)  
475 S. Academy  
New Braunfels, TX 78130

**Surveyor:** HMT Engineering & Surveying (Mark Conlan, RPLS)  
410 N. Seguin Ave.  
New Braunfels, TX 78130  
(830) 625-8555

**Staff Contact:** Matt Greene Planner  
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The subject property consists of 0.33 of an acre zoned "SND-1" Special Neighborhood District-1, and is within the Sophienburg Hill Historic District. The property is a double frontage parcel with frontage on both S. Academy Avenue and Hill Avenue and is improved with a single family residence facing S. Academy Avenue. This home was constructed in 1937 and was designated a Historic Landmark in 2014.

Section 118-49 of New Braunfels' Platting Ordinance requires the installation of a 4-foot wide sidewalk at the time of individual residential lot improvement. The applicant is requesting a waiver from this requirement adjacent to both Hill and Academy Avenues as there are no sidewalks within the existing neighborhood or general area. The nearest sidewalks are approximately 490 feet away on Academy Avenue in front of the Sophienburg Museum, and 495 feet away on Castell Avenue at the intersection with Butcher Street (Attachment 6).

On November 7, 2017, the Planning Commission approved the applicant's replat of this tract and recommended approval of this waiver request. In considering this waiver request, the Planning Commission had three options:

1. To deny the waiver and require the sidewalk construction at the time of new development on the property;
2. To recommend the applicant escrow the estimated amount of the sidewalk for construction by the City at a later date; or
3. To recommend waiving the sidewalk requirement.

The Platting Ordinance authorizes waivers to be approved when an undue hardship will result from strict compliance with a provision of the Ordinance, or where the purpose of the regulation may be served to a greater extent by an alternative proposal, so that substantial justice may be done and the public interest is secured. A waiver may not be approved unless it is found that:

1. Granting the waiver will not be detrimental to the public safety, health or welfare, and will not be injurious to other property or to the owners of other property, and the waiver will not prevent the orderly subdivision of other property in the vicinity;
2. Because of the particular physical surroundings, shape and/or topographical conditions of the

specific property involved, a particular hardship to the property owner would result, as distinguished from a mere inconvenience, if the strict letter of these regulations is carried out; or an alternate design will generally achieve the same result or intent as the standards and regulations prescribed herein; and

3. The waiver will not in any manner vary the provisions of the Zoning Ordinance or other ordinance(s) of the City.

**ADDRESSES A NEED/ISSUE IN A CITY PLAN OR COUNCIL PRIORITY:**

√	No	<b>City Plan/Council Priority:</b> <i>2006 Comprehensive Plan Pros and Cons Based on Policies Plan</i>	<b>Pros:</b> None. <b>Cons:</b> <b>Goal 25B-6</b> <i>Sidewalks should be provided for all new development, offset from street wherever possible.</i> The Comprehensive Plan encourages sidewalk construction.
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**FISCAL IMPACT:**

Cost of sidewalk construction may be at the City's expense in the future if the waiver is granted.

**COMMITTEE RECOMMENDATION:**

The Planning Commission voted to recommend waiving the sidewalk requirement (6-0-0) with Commissioners Laskowski and Sonier absent.

**STAFF RECOMMENDATION:**

Sidewalk connectivity is important for safe mobility as well as for community health. The surrounding area is a residential neighborhood and sidewalks will facilitate safe and convenient pedestrian mobility. Therefore, staff recommends denial of the request in order to have the sidewalk network be constructed in this established historic neighborhood over time.

**ATTACHMENTS:**

1. Aerial and Regional Transportation Plan Map
2. Application
3. Reduced Plat
4. Sidewalk Exhibit
5. Photographs of Subject Property
6. Section 118-49 Sidewalks
7. Section 118-11 Waiver
8. Excerpt from Planning Commission Meeting Minutes of November 7, 2017