

## Legislation Details (With Text)

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**File #:** 21-92      **Name:**

**Type:** Plat      **Status:** Individual Item Ready

**File created:** 1/20/2021      **In control:** Planning Commission

**On agenda:** 2/2/2021      **Final action:**

**Title:** WVR21-010 Consideration of a waiver to Section 118-49 of the Subdivision Platting Ordinance to not require sidewalk construction along FM 2722 for the Preserve at Elm Creek Subdivision.

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. Aerial Map, 2. Waiver Request, 3. Master Plan

Date	Ver.	Action By	Action	Result
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Presenter/Contact

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**SUBJECT:**

WVR21-010 Consideration of a waiver to Section 118-49 of the Subdivision Platting Ordinance to not require sidewalk construction along FM 2722 for the Preserve at Elm Creek Subdivision.

**Plat Information:****Owner/**

**Applicant:** JHJ Land & Cattle Company Holdings, LLC (James H. Jacobs)  
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**Description:** Sidewalk waiver request for a proposed subdivision with 205 lots intended for residential use on 295 acres

The subject tract is located within the ETJ of New Braunfels and in Comal County, west of the intersection of FM 2722 and Bear Creek Trail. The property is also located south of, and adjacent to, the Vintage Oaks at the Vineyard Neighborhood which is mostly outside of the New Braunfels ETJ. The applicant is intending to develop a large-lot (minimum 1 acre) subdivision with 205 residential lots.

### **Transportation:**

#### **Regional Transportation Plan:**

FM 2722 is designated as a 120-foot wide Minor Arterial and the existing right-of-way as shown on the master plan exhibit is in conformance with platting standards. Any required right-of-way dedication or improvements requested by TxDOT will be addressed during master plan and final plat review.

#### **Sidewalks:**

Six-foot wide sidewalks are required to be constructed by the developer along the development side of the TxDOT roadway, FM 2722. **The applicant is requesting a waiver to not construct approximately 3,000 linear feet of the required sidewalk along FM 2722.**

It is likely that bicycle and pedestrian activity will increase along FM 2722 with the progress of development along this transportation corridor. The expansion of safe pedestrian routes is a priority for the community as stated in Envision New Braunfels, the Comprehensive Plan.

Waiver criteria are provided below in Commission Findings. The applicant states that there are no existing sidewalks along FM 2722 within the vicinity of this development. In addition, the developer has stated that anticipated TxDOT improvements to FM 2722 and state regulatory changes could cause the installation of sidewalk at this time to be premature.

In considering this waiver request, the Planning Commission has three options:

1. To deny the waiver request and require sidewalk construction when the property is platted;
2. To require that the developer escrow the estimated amount of a 6-foot wide sidewalk for construction by TxDOT at a later date; or
3. To recommend approval of the waiver.

All sidewalk waiver requests recommended for approval, or approval with conditions, by the Planning Commission will be forwarded to City Council for final consideration.

### **Commission Findings:**

The adopted Subdivision Platting ordinance indicates the Planning Commission shall not approve/recommend approval of a waiver unless it makes findings based upon the evidence presented to it in each specific case 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:**

<b>City Plan/Council Priority:</b> Envision New Braunfels Comprehensive Plan	<b>Action 6.4:</b> Consider how each new development project impacts the transportation system and ensure appropriate mitigation is implemented. <b>Action 7.3:</b> Prioritize connecting sidewalk gaps through development requirements or public investment. <b>Action 7.5:</b> Continue development of sidewalks and trails to increase interconnectivity by 5 percent each year to support reduction of carbon footprint. <b>Action 7.19:</b> Improve connectivity for all modes of transportation including bicycles.
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**FISCAL IMPACT:**

Sidewalks not constructed or escrowed with development will have to be constructed later at taxpayer expense.

**STAFF RECOMMENDATION:**

Staff recommends the applicant escrow the cost of construction of the required sidewalk along FM 2722. Funds designated for sidewalk installation with future improvements to this roadway will offset these costs to the taxpayer.

**Attachments:**

1. Aerial Map
2. Waiver Request
3. Master Plan Exhibit