

## Legislation Details (With Text)

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**File #:** 21-528                      **Name:**

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

**File created:** 5/21/2021                      **In control:** Planning Commission

**On agenda:** 6/1/2021                      **Final action:**

**Title:** WVR21-161 Discuss and consider a waiver request from Section 118-51(f)(3)(b) to not require the floodway be designated a drainage easement on the replat of Misty Acres, Unit 2, Block 3, Lot 6.

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. Aerial Map, 2. Applicant's Waiver Justification, 3. Replat

Date	Ver.	Action By	Action	Result
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**PRESENTER:**

Applicant: HMT Engineering & Surveying (Chris Van Heerde, P.E.)  
Owner: Darrell & Maureen Jonas

**SUBJECT:**

WVR21-161 Discuss and consider a waiver request from Section 118-51(f)(3)(b) to not require the floodway be designated a drainage easement on the replat of Misty Acres, Unit 2, Block 3, Lot 6.

**DEPARTMENT:** Planning and Development Services

**COUNCIL DISTRICTS IMPACTED:** 5

**BACKGROUND INFORMATION:**

Applicant: HMT Engineering & Surveying (Chris Van Heerde, P.E.)  
290 S. Castell Ave., Suite 100  
New Braunfels, TX, 78130  
(830) 625-8555                      plats@hmtnb.com

Owner: Darrell & Maureen Jonas  
4661 Spring Fork Drive  
Corpus Christi, TX 78413  
(361) 549-1925

Staff Contact: Matthew Simmont  
(830) 221-4058                      msimmont@nbtexas.org

The subject property consists of approximately 2.87 acres located at the cul-de-sac terminus of Misty Acres Drive. A replat was approved in February 2017 for the creation of 3 residential lots.

**Drainage:**

Section 118-51 of the Subdivision Platting Ordinance requires the floodway to be designated on a plat as a drainage easement. Structures, fences and other obstructions are not allowed within a drainage easement.

**The applicant is requesting a waiver to not require the floodway to be designated as a drainage easement within this subdivision.**

The applicant states the waiver request is to be able to fully enjoy the benefits of living on the river's edge.

**ISSUE:**

Waiver criteria are provided below in Commission Findings.

**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.

**FISCAL IMPACT:**

N/A

**RECOMMENDATION:**

Staff is opposed to the waiver request to not designate the mapped floodway as a drainage easement. The waiver request references the desire to construct improvements to include boat houses and docks in the floodway to the benefit of the property owners. The addition of such structures into the floodway would introduce additional flood risk for the subject and downstream properties. For example, during a flood, such structures can wash downstream and damage others' property, or break apart as debris and hurt people.

Taxpayer dollars have gone toward the purchase of properties in the floodway to lower/remove the risk to the public health, safety and welfare that results from construction within the floodway. It is also important to note that certain improvements are allowed in the floodway that would enhance the river frontage to include boat ramps, patio space, walkways and stairways.

**Resource Links:**

Chapter 118-51(e) Drainage, of the City's Code of Ordinances:

[https://library.municode.com/tx/new\\_braunfels/codes/code\\_of\\_ordinances?nodeId=PTIICOOR\\_CH118SUPL\\_ARTIVDEST\\_S118-51WASEDRFAFLHA](https://library.municode.com/tx/new_braunfels/codes/code_of_ordinances?nodeId=PTIICOOR_CH118SUPL_ARTIVDEST_S118-51WASEDRFAFLHA)

**Attachments:**

1. Aerial Map
2. Applicant's Plat Waiver Justification Letter

3.      Replat