

## Legislation Details (With Text)

<b>File #:</b>	21-872	<b>Name:</b>	
<b>Type:</b>	Plat	<b>Status:</b>	Consent Item Ready
<b>File created:</b>	8/26/2021	<b>In control:</b>	Planning Commission
<b>On agenda:</b>	9/8/2021	<b>Final action:</b>	
<b>Title:</b>	WVR21-272 Discuss and consider a waiver request from Section 118-46 to not require construction of a driveway connection prior to recording the plat for Senaido Dual Crossing Subdivision.		
<b>Sponsors:</b>			
<b>Indexes:</b>			
<b>Code sections:</b>			
<b>Attachments:</b>	1. Aerial Map, 2. Justification Letter, 3. Senaido Plat 8-2023, 4. Photographs		

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

Applicant: Urban Civil

Owner: Senaido Rodriguez, Jr.

**SUBJECT:**

WVR21-272 Discuss and consider a waiver request from Section 118-46 to not require construction of a driveway connection prior to recording the plat for Senaido Dual Crossing Subdivision.

**DEPARTMENT:** Planning and Development Services**COUNCIL DISTRICTS IMPACTED:** Outside City Limits**BACKGROUND INFORMATION:**

Applicant: Urban Civil (Brian Mendez)  
190 S. Seguin Avenue  
New Braunfels, TX, 78130  
(830) 606-3913      [bmendez@urbancivil.com](mailto:bmendez@urbancivil.com)

Owner:	Senaido Rodriguez, Jr. 1886 W. Mill Street New Braunfels, TX 78130 (210) 374-2683 <a href="mailto:senaido.rodriguez@gmail.com">senaido.rodriguez@gmail.com</a>	Senaido Rodriguez, Sr. 1617 Michigan Street New Braunfels, TX 78130
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Staff Contact: Holly Mullins  
(830) 221-4054      [hmullins@nbtexas.org](mailto:hmullins@nbtexas.org)

The subject property is located along IH-35 South between Old Highway 81 and Rusch Lane. An area approximately 100 feet deep along the frontage road is within the City limits, with the remainder in the ETJ in Comal County. The land is currently undeveloped.

A final plat establishing three residential lots on 6.4 acres was approved with conditions by the Planning

Commission on January 5, 2021 but has not yet been recorded.

Driveway Connection:

**The applicant is requesting a waiver from the condition of approval of the final plat that requires a driveway connection between Jarratt Street and Louella Drive be constructed prior to recording the plat, and instead allow the construction to occur at time of site development.**

Jarratt Street and Louella Drive are existing dead-end streets that terminate at the subject property. Land on the other side of the Senaido Dual Crossing Subdivision is already developed so extending the two streets across the property would not provide any future connection. In a waiver request from the requirement to construct cul-de-sacs at the end of both streets, the applicant proposed a private driveway connection between Jarratt Street and Louella Drive to address the dead-ends and facilitate emergency services.

The staff recommendation for approval of the original waiver with the Senaido Dual Crossing plat included the emergency access easement with a paved driveway connection between Jarratt Street and Louella Drive that could support fire truck apparatus. Because the property is in the ETJ where the City does not issue building permits, staff recommended the driveway be constructed prior to recording the subdivision plat. The Planning Commission approved the plat with these conditions as listed in the staff recommendation.

The applicant is now requesting approval for the driveway connection to be constructed at time of development on either Lot 2 or 3 rather than prior to recordation. The property owners have no immediate plans for development on these lots, and express concern that an unattended private drive may invite use by the public and trespassing onto the property. The applicant proposes adding a plat note that states: Before any vertical construction on any lots can begin, fire hydrants and driveway connection between Jarratt Street and Louella Drive are to be constructed to meet Fire Department standards.

Typically, the Public Works and Fire Departments would have no objection to requiring driveway construction prior to vertical development. However, for property outside the city limits, there is no building permit review process to ensure compliance. The applicant has had additional conversations with the Fire Department regarding the timing of accessibility to the site. The property is located within ESD #7-2 which the New Braunfels' Fire Department provides service to.

Fire Hydrants:

Another condition of approval was the requirement to provide an exhibit showing how fire hydrants are tapping into the existing waterline with approval from New Braunfels Utilities that the fire flow will meet requirements prior to recording the plat (Section 118-43). The applicant had requested a waiver to allow these items to also be provided prior to development rather than prior to recording, but NBU has recently approved the fire flow and this waiver is no longer needed.

**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:**

Until Lots 2 and 3 are developed, this plat has no effect on the existing condition of Jarratt Street and Louella Drive as dead-end streets, but staff recommended the driveway be constructed prior to recording the plat because that appeared to be the only opportunity the City had to ensure it was constructed. However, staff does recognize the applicant's concern public trespass, and the proposed plat note may be a sufficient guarantee in this unique scenario. The required emergency access easement is not for public use, provides access only to emergency responders serving the property, the property is located within ESD #7-2 which is served by the NB Fire Department, and they will be able to alert Planning and Development Services if construction occurs without the drive.

Resource Links:

Chapter 118-46(i) Dead-end Streets, of the City's Code of Ordinances:

[Sec. 118-46. - Streets. | Code of Ordinances | New Braunfels, TX | Municode Library](https://library.municode.com/tx/new_braunfels/codes/code_of_ordinances?nodeId=PTIICOOR_CH118SUPL_ARTIVDEST_S118-46ST)  
<[https://library.municode.com/tx/new\\_braunfels/codes/code\\_of\\_ordinances?](https://library.municode.com/tx/new_braunfels/codes/code_of_ordinances?nodeId=PTIICOOR_CH118SUPL_ARTIVDEST_S118-46ST)  
[nodeId=PTIICOOR\\_CH118SUPL\\_ARTIVDEST\\_S118-46ST](https://library.municode.com/tx/new_braunfels/codes/code_of_ordinances?nodeId=PTIICOOR_CH118SUPL_ARTIVDEST_S118-46ST)>

Attachments:

1. Aerial Map
2. Applicant's Plat Waiver Justification Letter
3. Final Plat
4. Photograph