

## Legislation Details (With Text)

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**File #:** 21-991                      **Name:**

**Type:** Plat                      **Status:** Consent Item Ready

**File created:** 9/22/2021                      **In control:** Planning Commission

**On agenda:** 10/6/2021                      **Final action:**

**Title:** WVR21-335 Discuss and consider a waiver request from Section 118-43(b) to not require the extension of Fredericksburg Road to be constructed to the property line with the proposed Town Creek Subdivision Phase 4.

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. Aerial Map, 2. Plat Waiver Justification Letter, 3. Photographs

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

Applicant: HMT Engineering & Surveying;  
Owner: Town Creek Texas LP

**SUBJECT:**

WVR21-335 Discuss and consider a waiver request from Section 118-43(b) to not require the extension of Fredericksburg Road to be constructed to the property line with the proposed Town Creek Subdivision Phase 4.

**DEPARTMENT:** Planning and Development Services

**COUNCIL DISTRICTS IMPACTED:** Council District 1

**BACKGROUND INFORMATION:**

Case #: WVR21-335

Owner: TC Town Creek Texas LP  
David Wolters  
P.O. Box 303115  
Austin, Texas 78130  
(512) 633-2245                      wolters.david@gmail.com

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

Case Manager: Holly Mullins  
(830) 221-4054 hnullins@nbtexas.org

Town Creek is a 66-acre mixed use development located at the intersection of Walnut Avenue and N. Academy Avenue, and adjacent to Dry Comal Creek. The planned development zoning was approved in 2006 to create a unique, walkable community with a range of housing and business opportunities.

Phase 4 is the final phase of the subdivision to be platted. It contains the dedication of Fredericksburg Road right-of-way from Academy Avenue to the north property boundary where it meets Union Pacific Railroad right-of-way.

Extension of street construction:

**The applicant is requesting a waiver from the requirement to construct the street extension to the property line.** Instead, they are proposing to stop construction of Fredericksburg Road and sidewalks 75 feet from the property line to allow ease of connection for a future at-grade railroad crossing. The applicant states that, should an overpass or underpass be constructed, the Fredericksburg roadway will need to be demolished at least 300 feet back from the property line to accommodate the construction. (See attached justification letter.)

The Code of Ordinances requires public improvements to be extended to the property boundary for future connection. Fredericksburg Road is on the City's Regional Transportation Plan as a Minor Collector, so right-of-way dedication and construction of the collector street are required with the Phase 4 plat. Furthermore, the Fredericksburg Road connection between Landa Street and Academy Avenue is on the Roadway Impact Fee Capital Improvement Plan.

Staff does not support the waiver request. Due to the circumstances of the development and potential grade separation, staff supports right-of-way dedication and escrow deposit for the construction of the collector street and sidewalks to the UPRR right-of-way in accordance with Section 118-52. It is anticipated that the City will further assess the connection through the Roadway Impact Fee Program. Access or other permanent use along the section of right-of-way shall be restricted due to a potential grade separation.

**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 recommends denial of the street extension waiver. Staff recommends right-of-way dedication, escrow deposit for the construction of the collector street and sidewalks to the UPRR right-of-way, and restricting access or other use for a potential grade separation.

Resource Links:

Chapter 118-43(b) Design Standards Generally, of the City's Code of Ordinances:

[Sec. 118-43. - Generally. | Code of Ordinances | New Braunfels, TX | Municode Library](https://library.municode.com/tx/new_braunfels/codes/code_of_ordinances?nodeId=PTIICOOR_CH118SUPL_ARTIVDEST_S118-43GE)  
<[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_S118-43GE)  
[nodeId=PTIICOOR\\_CH118SUPL\\_ARTIVDEST\\_S118-43GE](https://library.municode.com/tx/new_braunfels/codes/code_of_ordinances?nodeId=PTIICOOR_CH118SUPL_ARTIVDEST_S118-43GE)>

**Attachments:**

1. Aerial Map
2. Plat Waiver Justification Letter
3. Photograph