

Legislation Details (With Text)

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| File #: | 21-1124 | Name: | |
| Type: | Plat | Status: | Consent Item Ready |
| File created: | 10/15/2021 | In control: | Planning Commission |
| On agenda: | 11/2/2021 | Final action: | |
| Title: | WVR21-360 Discuss and consider a waiver from Section 118-49(a) of the Subdivision Platting Ordinance to not require the construction of a 6-foot wide public sidewalk along the Interstate 35 Access Road adjacent to Lot1, Block 1 of the proposed Herber Estates Subdivision. | | |

Sponsors:**Indexes:****Code sections:**

Attachments: 1. Herber Aerial Map, 2. Approved Final Plat (not recorded), 3. Letter of Waiver Justification, 4. Photograph and Schematic Exhibit

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

Applicant: HMT Engineering & Surveying (Bill Ball, P.E.)

Owner: John Herber

SUBJECT:

WVR21-360 Discuss and consider a waiver from Section 118-49(a) of the Subdivision Platting Ordinance to not require the construction of a 6-foot wide public sidewalk along the Interstate 35 Access Road adjacent to Lot1, Block 1 of the proposed Herber Estates Subdivision.

DEPARTMENT: Planning and Development Services

COUNCIL DISTRICTS IMPACTED: N/A Outside City Limits

BACKGROUND INFORMATION:

Case #: WVR21-360

Owner: John Herber
175 Herber
New Braunfels, TX 78130
(830) 237-3383 jwoodshop@gmial.com

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

Staff Contact: Matt Greene
(830) 221-4053 mgreene@nbtexas.org

The subject property consists of approximately 38.64 acres located at the intersection of IH 35 and Herber in the ETJ in Comal County and is intended to be subdivided into 2 residential lots. The minor plat of the Herber Estates Subdivision was approved by the Planning Commission with a waiver from the requirement for Lot 2 to have frontage on an improved dedicated public street. One of the Planning Commission's Conditions of Approval of the minor plat is to add a plat note stating: "a six (6) foot wide sidewalk will be constructed along Interstate 35 Frontage Road per City standards by the owner/developer of Lot 1, Block 1 within 60 days of recordation of this subdivision plat". The length of 6-foot wide sidewalk required to be constructed is approximately 30 linear feet.

Sidewalks:

The applicant is requesting a waiver from the requirement of constructing a 6-foot wide public sidewalk along the Interstate 35 Frontage Road adjacent to Lot 1, Block 1.

Section 118-49(a)(1) of the Subdivision Platting Ordinance requires sidewalks on the subdivision or development side or sides of all major throughfares or arterial streets as indicated on the City's throughfare plan, or a major throughfare as determined by the Planning Commission, and on perimeter streets. The applicant is requesting a waiver to not construct a sidewalk along the Interstate 35 Frontage Road.

The applicant states in the attached engineer's letter, that "the waiver is requested to avoid ineffective and redundant operations relating to TxDOT's planned project for the I-35 Comal County Operational Improvements Northern Project extending from the Guadalupe River in New Braunfels to the Comal/Hays County Line, which includes the planned construction of sidewalks along the Interstate 35 Frontage Road" (see attached Photograph and Schematic Exhibit). As shown in the exhibit, the Interstate 35 Frontage Road will be relocated and in closer proximity to the existing Interstate 35 roadway at a lower grade elevation. Further, the engineer states that "TxDOT has informed him they do not see the need for the applicant to construct the sidewalk at this time as the sidewalk would not have any connections for several miles (under current conditions) and would not tie-into the future sidewalk constructed by TxDOT along the realigned Interstate 35 Frontage Road, and would just be abandoned or demolished during the TxDOT construction project." The attached exhibit shows the location of the future TxDOT sidewalk that will be constructed approximately 100 feet from the Herbert Final Plat ROW where the code requires the sidewalk to be constructed.

Sidewalks are required to provide walkable and multimodal connections for pedestrians to have an alternative means of access to adjacent locations without needing to drive a car. Staff typically supports requiring sidewalks, and a standard comment might require that escrow be posted to allow the sidewalk to be constructed at a later date, or that a note be placed on the final plat indicating that the sidewalk must be constructed at the time of building permit, as was the staff recommended condition placed on approval of this final plat. However, neither method would accommodate this proposal to allow TxDOT to construct the sidewalk as part of their future realignment project.

ISSUE:

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

The Subdivision Platting Ordinance authorizes waivers to be granted when:

1. An undue hardship will result from strict compliance with the ordinance, or

2. When 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.

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:

Sidewalks not constructed by the developer may have to be constructed later at taxpayer expense.

RECOMMENDATION:

Approval. Staff believes the TxDOT planned project for the I-35 Comal County Operational Improvements Northern Project can better fulfill this requirement by the future construction of a continual sidewalk with connections to adjacent properties.

Resource Links:

Chapter 118-49(a)(1) Sidewalks, of the City's Code of Ordinances:

https://library.municode.com/tx/new_braunfels/codes/code_of_ordinances?nodeId=PTIICOOR_CH118SUPL_ARTIVDEST_S118-49SI

Chapter 118-49(b) Sidewalks, of the City's Code of Ordinances:

https://library.municode.com/tx/new_braunfels/codes/code_of_ordinances?nodeId=PTIICOOR_CH118SUPL_ARTIVDEST_S118-49SI

Attachments:

Aerial Maps

Approved Final Plat (not recorded)

Applicant's Letter of Waiver Justification

Photograph and Schematic Exhibit