

## Legislation Details (With Text)

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<b>File #:</b>	22-919	<b>Name:</b>	
<b>Type:</b>	Plat	<b>Status:</b>	Consent Item Ready
<b>File created:</b>	7/20/2022	<b>In control:</b>	Planning Commission
<b>On agenda:</b>	8/2/2022	<b>Final action:</b>	
<b>Title:</b>	WVR22-300 Discuss and consider a waiver to Section 118-46(y)5c, requiring the developer to construct a right turn lane as detailed in the approved Villas at Barbarosa Traffic Impact Analysis Report.		

**Sponsors:****Indexes:****Code sections:****Attachments:** 1. Aerial Exhibit, 2. Project Letter, 3. Plat Waiver Justification, 4. Villas at Barbarosa final plat

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

Applicant: HMT Engineering &amp; Surveying; Chris Van Heerde, P.E.

Owner: Khoi Luu

**SUBJECT:**

WVR22-300 Discuss and consider a waiver to Section 118-46(y)5c, requiring the developer to construct a right turn lane as detailed in the approved Villas at Barbarosa Traffic Impact Analysis Report.

**DEPARTMENT:** Planning and Development Services**COUNCIL DISTRICTS IMPACTED:** ETJ**BACKGROUND INFORMATION:**

Case #: WVR22-300

Owner: Khoi Luu  
Houston, TX 77056  
(713) 977-5699 x 204 kluu@kapcorp.com

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

Case Manager: Matthew Simmont  
(830) 221-4058 msimmont@nbtexas.org

**Description:** A 24.896-acre final plat establishing 1 lot.

The subject property is located west of the intersection of Barbarosa Road and Alves Lane, southeast of

Creekside. The applicant intends to plat and develop the subject property with a build-for-rent multifamily development.

### **ISSUE:**

#### Turn Lane Construction:

The Subdivision Platting Ordinance requires that all subdivisions dedicate and/or construct traffic facilities that are needed to achieve appropriate level of service for functionality of the transportation system. Upon analysis of the traffic implications of the proposed development, the project is required to install a right turn lane on Barbarosa Road to facilitate acceptable roadway functionality. **The applicant is requesting a waiver to allow for the escrow of the funds required for construction of a right turn lane (with a future improvement project) at the intersection of Barbarosa Drive and Alves Lane.**

The city's adopted platting standards set the minimum requirements for subdivision layout and design. They are to ensure the progression of development in and around the city happens in a fair and equitable manner while providing appropriate access and traffic facilities. Development standards for public improvements, such as offsite mitigation improvements to be constructed with each subdivision plat ensure the continuous improvement of public facilities and provides safe access for increased traffic to and drawn by new development.

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 ordinances(s) of the City.

### **FISCAL IMPACT:**

N/A

### **RECOMMENDATION:**

Denial. The developer has not demonstrated that a turn lane cannot be accommodated within the existing (50-foot-wide) right-of-way of Barbarosa Road. A sidewalk along Lot 2, Clarence Timmermann Subdivision will not be required with the turn lane and there are opportunities to realign the road within the existing right-of-way. Furthermore, future capital improvements are not scheduled for construction until 2027 and the right turn is needed with the development. Thus, staff believes the applicant's submitted position letter is inadequate to justify granting approval of the waiver since it does not provide sufficient detail as to how the proposed 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. Additionally, the adjacent Clarence Timmermann Subdivision property, like the subject property, is located outside city limits. Therefore, the city cannot acquire right-of-way nor expend city

funds on improvements within the ETJ. A design solution to provide the turn lane needed to mitigate the increased traffic demands to be generated by the proposed development must occur with the plat.

Resource Links:

Chapter 118-46 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?nodeId=PTIICOOR\\_CH118SUPL\\_ARTIVDEST\\_S118-46ST>](https://library.municode.com/tx/new_braunfels/codes/code_of_ordinances?nodeId=PTIICOOR_CH118SUPL_ARTIVDEST_S118-46ST)