

## Legislation Text

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**File #:** 19-039, **Version:** 1

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Presenter/Contact

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**SUBJECT:**

Discuss and consider a waiver from the requirement to construct sidewalks along FM 1102 for the proposed Westridge Oaks Subdivision.

**BACKGROUND / RATIONALE:**

**Case #:** PL-18-134

**Applicant:** M & S Engineering  
376 Landa Street  
New Braunfels, TX 78130  
(830) 629-2899

**Owner:** Hunter Creek Enterprises, LP  
Chris Harborth  
120 Colette Lane  
Marion, TX 78124

**Staff Contact:** Holly Mullins, Planner  
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The subject property is approximately 69 acres located adjacent to Havenwood Subdivision on the west side of FM 1102 (Hunter Road), in the City's ETJ. The proposed subdivision consists of 193 residential lots with sidewalks along all internal streets. The developer is also planning to build trails and maintain green spaces to provide pedestrian activity within the subdivision.

While the applicant intends to build the required internal sidewalks, he has requested a waiver from the requirement to construct a perimeter sidewalk along FM 1102. The applicant describes FM 1102 as a rural road with one lane in each direction, a narrow shoulder, and current speed limit of 55 miles per hour. He notes there are no pedestrian facilities or destinations in the area. It is the applicant's belief that sidewalks along FM 1102 at this time would not provide any reasonable use to the community, could potentially create a safety hazard, and are likely to be relocated with potential future roadway improvements. The nearest sidewalks are approximately 2.5 miles away, in the Cloud Country and Northwest Crossing Subdivisions off Conrads Lane (Attachment 4). A similar waiver request was approved by City Council for The Crossings at Havenwood, across FM 1102, in 2017.

Staff recognizes this section of FM 1102 is a rural state Farm-to-Market highway that has primarily served large lot residential and farm land, as well as being a local alternate route to San Marcos. The City of New Braunfels is not aware of planned nearby development that would generate or attract pedestrians in the near future. Because of the importance of sidewalks to the public, in situations such as this the City would typically recommend funds for sidewalk construction be placed in escrow by the developer for construction by the City at a later date. However, escrowed funds must be used within ten years and the City Engineer does not anticipate an FM 1102 project that would include sidewalks within that timeframe. Therefore, the City does not oppose the request to waive the requirement for perimeter sidewalks along FM 1102, with internal sidewalks to be installed as required.

The Subdivision Platting Ordinance authorizes waivers to be granted when an undue hardship will result from strict compliance with the ordinance, or where 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 secured. A waiver may not be approved unless it is found 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 the regulations is carried out; or an alternate design will generally achieve the same result or intent as the standards and regulations prescribed in the Subdivision Platting Ordinance; and
3. The waiver will not in any manner vary the provisions of the Zoning Ordinance or other ordinance(s) of the City.

Sidewalk waivers may only be granted by City Council after a recommendation from the Planning Commission. If the applicant's request is approved, TxDOT still requires streets accessing FM 1102 to have a pedestrian crossing area that meets Texas Department of Licensing and Regulation (TDLR) and Americans with Disabilities (ADA) requirements. Any connecting sidewalk construction in the future would then become the responsibility of the taxpayers.

If the sidewalk waiver request is denied, a 4-foot wide sidewalk will be required along FM 1102 adjacent to the subject property, with the exact location determined by TxDOT.

**ADDRESSES A NEED/ISSUE IN A CITY PLAN OR COUNCIL PRIORITY:**

<b>City Plan/Council Priority:</b> Envision New Braunfels Comprehensive Plan	<b>Located within a Transitional Mixed Use Corridor and on the southern edge of the Hoffmann Lane Sub Area.</b> <b>Action 3.19:</b> Improve walkability across town to attract younger generations seeking pedestrian connections. <b>Action 7.3:</b> Prioritize connecting sidewalk gaps through development requirements or public investment. <b>Action 7.5:</b> Continue development of sidewalks and trails to increase interconnectivity by 5 percent each year to support reduction of carbon footprint. <b>Action 7.19:</b> Improve connectivity for all modes of transportation including bicycles.
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**FISCAL IMPACT:**

At some point in the future, sidewalks may have to be constructed, or other modifications made to the right-of-way, to comply with the Americans with Disabilities Act, possibly at taxpayer expense.

**COMMITTEE RECOMMENDATION:**

On December 4, 2018 the Planning Commission approved the preliminary plat for Westridge Oaks Subdivision with a recommendation for approval of a waiver from the requirements for sidewalks to be built along FM 1102.

**STAFF RECOMMENDATION:**

Staff recommends approval of the applicant's request due to:

- The nature of FM 1102 as a rural highway with no nearby current or planned development to generate or attract pedestrians;
- No road improvement projects that include sidewalks proposed in the next ten years to justify the developer's escrow of funds for construction.

**Attachments:**

1. Aerial Map
2. Application and Waiver Request
3. Plat
4. Sidewalk Exhibit