



AGENDA MEMORANDUM

Planning Commission Meeting of August 21, 2019

DATE: August 15, 2019

TO: Nina Nixon-Méndez, Director of Development Services

FROM: Greg Collins, Senior City Planner, Development Services
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Cullen Place Block B-2E, Lots 1 and 2 (Final Plat)
Request for a Plat Waiver of the Sidewalk Ramp Construction Requirement
in Section 8.1.4 and 8.2.2 of the Unified Development Code

BACKGROUND:

Urban Engineering, on behalf of property owners, submitted a request for a waiver of the plat requirement to construct sidewalk ramps, in Section 8.1.4.A and 8.2.2.A of the Unified Development Code (UDC).

The subject property, known as Cullen Place Block B-2E, Lots 1 and 2, a Replat of 1.45 acres +/-, is located south of Alameda Street and east of Airline Road. The land is zoned Neighborhood Commercial with a Special Permit ("CN-1/SP"). The purpose of this replat is to subdivide the property to sell a portion of the property for commercial development.

One of the requirements in the Plat Review Comments document, Development Services Engineering Comment #5, states that "Accessible sidewalk ramp at existing Airline Road driveway" is required. Existing, tied sidewalk runs along the east side of Airline Road. Where the tied sidewalk and curb intersect the driveways, there is a drop off and difference in grade between the sidewalk and the driveway, thereby impeding accessible pedestrian traffic movement. As a result, two (2) curb ramps are required. In response to DS Engineering Comment #5, the applicant applied for a waiver from the ramp requirement.

STAFF ANALYSIS and FINDINGS:

UDC Section 8.1.4 and 8.2.2.A require construction of sidewalks as part of the platting process. UDC Table 8.2.1.C. also requires sidewalk for Airline Road, which is designated an A1 Arterial in the Urban Transportation Plan (UTP).

In addition to sidewalk requirements, curb ramp requirements appeared after enactment of the ADA in 1990, and "are a small but important part of making sidewalks," according to the ADA¹

¹ "ADA" is the Americans with Disabilities Act of 1990 (42 U.S.C. § 12101 et seq.).

The applicant states the following factors and circumstances in support of the request for waiver from the sidewalk ramp construction requirement:

1. The buyer will be developing the property at a later time and would address the ramp installation at the time of site development.
2. The applicant is concerned about duplication of cost and effort in construction now, when site development will occur in the future.
3. If curb ramps are installed now, they will likely require removal and replacement at the time of redevelopment.
4. The site development / building permit phase, when TDLR (Texas Department of Licensing and Regulation) review is required, is the appropriate time to require ADA compliance and not at the replat phase.

Factors and arguments weighing against the waiver and in support of requiring sidewalk ramps include:

1. City staff and the Technical Review Committee review all plats for compliance with current subdivision standards in the UDC, whether the land is unplatted, or is a replat. In short, a replat is a new plat. This replat creates two new lots: Lot 1 and Lot 2. Just as improvements in water, wastewater, stormwater, and fire hydrant may be required in a replat, so too, improvements in sidewalk may be required.
2. Because the driveway and sidewalk in question are located along right-of-way, construction of accessible curb ramp is required at the time of platting, and not at the site development / building permit stage of development.
3. The Comprehensive Plan's vision for transportation and mobility calls for "connected networks of good streets and sidewalks and safe bicycle routes."

Regarding sidewalk plat waivers, the UDC does state, under Section 8.2.2.B.1-4, that a waiver *may* be granted, in accordance with the waiver procedure in Section 3.8.3.D., but only if certain conditions exist:

1. Sidewalks shall not be required along each side of a street right-of-way where such street is a permanent dead-end street and where there is pedestrian access from the permanent dead-end street to a paved hike and bike trail. In such instance, a sidewalk only shall be required on one side of the street right-of-way.
2. Sidewalks shall not be required along street rights-of-way where each lot fronting on such street has direct access from the side or rear to a paved hike and bike trail.
3. Sidewalks shall not be required for residential subdivisions in the Farm-Rural and Residential Estate zoning districts.

² <https://www.ada.gov/pcatoolkit/chap6toolkit.htm> accessed on May 23, 2019.

4. Sidewalks adjacent to private streets may be allowed to be placed on only one side of the street if the sidewalk width is 6 feet or greater and approved by the Assistant City Manager of Development Services.

None of the enumerated conditions in UDC 8.2.2.B.1-4 for a sidewalk waiver exist on this subject property.

In any event, Section 3.8.3.D of the UDC provides factors to consider plat waivers, and states that the need for the waiver shall be demonstrated to the Planning Commission's satisfaction. The waiver may be approved, approved with conditions, or denied, after consideration of the following factors:

1. The granting of the waiver shall not be detrimental to the public health, safety or general welfare, or be injurious to other property in the area, or to the City in administering this Unified Code;
2. The conditions that create the need for the waiver shall not generally apply to other property in the vicinity;
3. Application of a provision of this Unified Development Code will render subdivision of land unfeasible; or
4. The granting of the waiver would not substantially conflict with the Comprehensive Plan and the purposes of this Unified Development Code.

STAFF RECOMMENDATION:

Weighing the factors, Staff recommends denial of the waiver from the sidewalk curb ramp construction requirement, and recommends construction of two sidewalk curb ramps at the existing driveway on Airline Road.

Alternatively, Staff recommends that the applicant enter into a deferment agreement with the City for the installation of the sidewalk curb ramps.

Planning Commission may choose to follow or decline Staff's recommendation, and Planning Commission may approve, approve with conditions, or deny the waiver request.

LIST OF SUPPORTING DOCUMENTS:

Exhibit A -- Final Plat
PowerPoint Presentation-Waiver from Sidewalk Curb Ramp Requirement