

AGENDA MEMORANDUM

Planning Commission Meeting of September 15, 2021

DATE: September 8, 2021

TO: Al Raymond, Director of Development Services

FROM: David Stallworth, Senior Planner, Development Services
davids7@cctexas.com
(361) 826-8451

Hemingway Townhomes, Unit 1 Final Plat

Request for a Plat Waiver of the Sidewalk Construction Requirements
in Section 8.1.4 and 8.2.2 of the Unified Development Code

BACKGROUND:

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

The +/-8.85-acre subject property is farmland that is located at the southeast corner of Greenwood and Silverberry Drives. The subject property is located approximately 0.68 miles from at least two public parks (Los Encinos and Father Fernandez) and 0.60 miles from a public school (Los Encinos Special Emphasis School). The final plat proposes a private internal local residential street grid and an ultimate yield of 48 single-family townhome lots and 11 non-residential lots (private street lots, landscape lots, etc.). The land is zoned CG-2 (General Commercial – 2). Townhomes are a permitted use in the CG-2 zoning district. To the west of the subject property is Greenwood Drive, which is identified as both a minor arterial on the Urban Transportation Plan and a one-way cycle track corridor in the Bicycle Mobility Plan. To the north is Silverberry Drive which is a 60-foot-wide public access easement that generally supports traffic generated by the regional commercial node to the north (consisting of Wal-Mart, a movie theater and various restaurants and retail outlets); public street right-of-way will be overlaid on the existing access easement, and it will inevitably be renamed Gellhorn Drive. Silverberry Drive is not classified on the Urban Transportation Plan but serves as a functional minor (equivalent C-1) collector.

The applicant's waiver request is two-fold: (a) to waive sidewalk requirements for internal private streets, per §§8.1.4, 8.2.2.A and Table 8.2.1.B of the UDC; and (b) to allow the installation of single-loaded sidewalk along the south side of proposed Gellhorn Drive instead of sidewalk along both sides, as required under §§8.1.4, 8.2.2.A and Table 8.2.1.C of the UDC. Should the first waiver be disapproved, then the applicant is obligated to construct either 4-foot-wide sidewalk on both sides of an internal private street or a 6-foot-wide sidewalk along one side of an internal private street, which is allowed under §8.2.2.C.4. Should the second waiver be disapproved, then the applicant is obligated to build sidewalks along both sides of proposed Gellhorn Drive, per

Table 8.2.1.C of the UDC.

STAFF ANALYSIS and FINDINGS:

§§3.30.1 and 8.1.4 of the UDC require construction of sidewalk as part of the platting process. The UDC also states, under §8.2.2.B.1, that a waiver *may* be granted, in accordance with the procedures outlined in §3.8.3.D. The waiver request does not qualify as an administrative exception, as allowed under §8.2.2.C. §3.8.3.D outlines the criteria necessary to consider plat waivers, with emphasis on the need for the waiver to 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.

Waiver No. 1 (to waive sidewalk requirements for internal private streets, per §§8.1.4, 8.2.2.A and Table 8.2.1.B of the UDC):

Factors in Support of the Waiver. The applicant states that they do not believe sidewalk should be required because:

1. The granting of the waiver is not detrimental to the public health, safety or general welfare, nor is it injurious to other property in the area, or to the city in administering the UDC. The applicant asserts that the proposed development will be a gated townhome community with an internal residential private street grid similar to that found in the Sandy Creek development.
2. The granting of the waiver would not substantially conflict with the Comprehensive Plan or the purpose of the UDC.
3. The conditions that create the need for the waiver shall not generally apply to other property in the vicinity.

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

1. The applicant did not indicate during the preliminary plat process that the residential components of the overall development would consist of gated communities.
2. The arguments provided largely consist of recitation of criteria with little to no clear justification or compelling reasoning that would sway staff to support the request. It is unclear what the bases for the waiver are, and it would be inappropriate to surmise the

applicant's intentions or rationale.

3. Approval of the waiver might not be in the best interests of the general public. Although the applicant indicates that gated access will be utilized, there are no guarantees that the type of gate mechanism employed (24-hour manned versus electronic self-activation) will ensure the level of access control necessary to preserve and maintain a safe internal pedestrian environment.
4. As an augment to finding number three (3), there are no indications that on-street parking will be prohibited along internal private streets. The presence of parked vehicles along both sides of the roadway will force pedestrians to walk within a travel lane, which is not optimal under any circumstances.
5. The applicant has not satisfactorily demonstrated that the use of alternative pedestrian facilities, such as multi-purpose trails, pedestrian paths utilizing alternative surfacing or pedestrian easements through private property are either unreasonable or impossible for this development.
6. The conditions driving this waiver request could also be applied to other properties in the area that develop as gated communities. Gated communities are not unique; rather, they are creatures of marketing or developmental preference, and as such, may develop anywhere.
7. There are no readily identifiable site peculiarities, unusual circumstances or harsh topographical issues that would render this project untenable if a 6-foot-wide internal sidewalk was built along at least one side of an internal private street.
8. Disapproval of the waiver will not diminish access to a diverse supply of quality housing, reduce the capacity for investment in neighborhood quality of life and discourage community identity and placemaking, all of which are housing related issues cited in the City's adopted Comprehensive Plan. The applicant cannot satisfactorily prove that housing goals and objectives such as affordability, life suitability and housing condition will be undermined if the waiver is disapproved.

Waiver No. 2 (to allow the installation of single-loaded sidewalk along the south side of proposed Gellhorn Drive instead of sidewalk along both sides, as required under §§8.1.4, 8.2.2.A and Table 8.2.1.C of the UDC):

Factors in Support of the Waiver. Upon further review, staff concludes that a sidewalk is unnecessary along the north side of proposed Gellhorn Drive because:

1. The granting of the waiver is not detrimental to the public health, safety or general welfare, nor is it injurious to other property in the area, or to the city in administering the UDC. Along the north side of Gellhorn between Greenwood and the Wal-Mart property, there are no destination points that would warrant a sidewalk. Additionally, the placement of new sidewalk along the south side of Gellhorn appears logical as it will best serve residential pedestrian traffic emanating from the new townhome development.
2. The conditions driving this waiver request appear to be unique to this segment of proposed Gellhorn Drive. Along the road's north side is a TX-DOT field office and equipment yard, as well as numerous existing utility easements, overhead utilities and mature tree canopy

that serves as a visual screen that should be preserved. In light of these observations, installation of a sidewalk along this segment would appear to be problematic at best and of little to no public benefit.

3. Although the application of sidewalk requirements along the north side of Gellhorn Drive will not render the new development unfeasible or impossible, its installation may appear to offer little to no public benefit, thereby putting its actual need into question.
4. The granting of the waiver would not substantially conflict with the Comprehensive Plan and the purposes of the UDC, especially as the UDC does allow for alternative single-loaded sidewalk options in some circumstances.

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

1. Given its location between the new residential development and an active commercial node, proposed Gellhorn Road will function as a C-1 Collector street. UDC Table 8.2.1.C requires sidewalk along this type of roadway.
2. None of the exceptional conditions for a sidewalk waiver that are listed in UDC 8.2.2.C exist in this case.

STAFF RECOMMENDATION:

Weighing the factors, Staff recommends disapproval of waiver number one and approval of waiver number two.

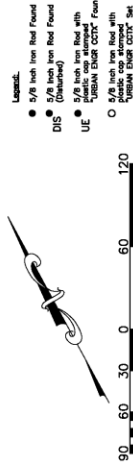
The Planning Commission may choose to follow or decline Staff's recommendation, and Planning Commission may approve, conditionally approve, or disapprove the waiver requests.

LIST OF SUPPORTING DOCUMENTS:

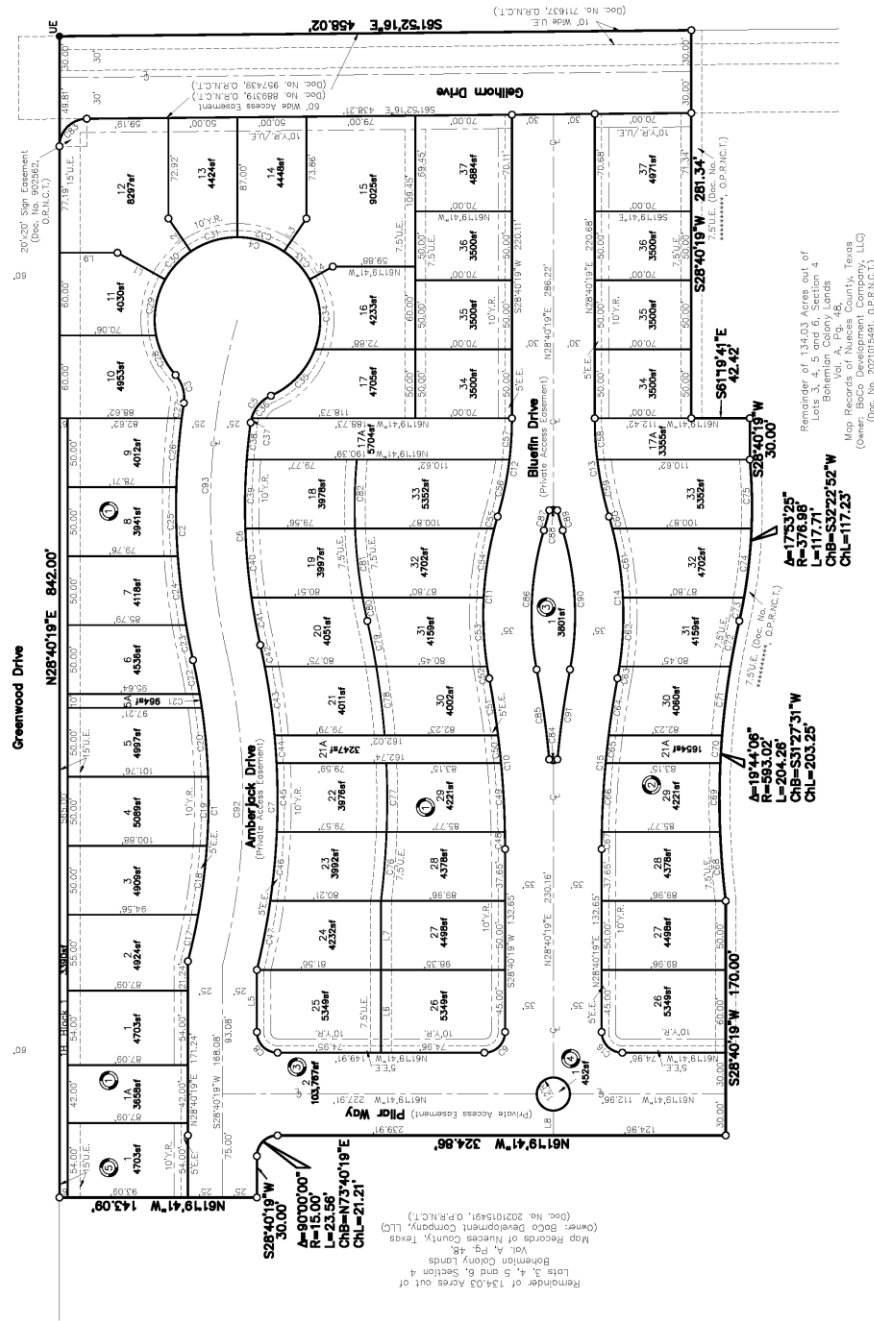
Exhibit A – Waiver Request Letter

Exhibit B – Final Plat

PowerPoint Presentation-Waiver from Sidewalk Requirement



LINE	BEARING	DISTANCE
L1	S32°01'57"E	39.69'
L2	S05°30'47"E	28.99'
L3	S62°51'25"W	28.99'
L4	S89°22'36"W	19.26'
L5	N28°40'19"E	45.00'
L6	S28°40'19"W	60.00'
L7	N28°40'19"E	50.00'
L8	S28°40'19"W	18.00'
L9	S61°19'41"E	42.06'



Plat of
Hemingway Townhomes
Unit 1

8.90 Acre Tract of Land, out of Lot 6, Section 4, Township 36N, Range 12E, County of Garza, State of Texas, known as the Bohemian Colony Lands, a map of which is recorded in Volume A, Page 48, Map Records of the County of Garza, Texas, and being a portion of a 134.03 Acre Tract described in a Special Warranty Deed, from South Padre Investment, L.P. to Boca Development Company, LLC as recorded in Document Number 2021015491, Official Public Records of Nueces County, Texas.

Preliminary, this document shall not be recorded for any purpose and shall not be used or viewed or relied upon as a final survey document.



Revised: 8/26/21
Submitted: 6/18/21
SCALE: 1"=60'
JOB NO.: 19925.C0.02
SHEET: 2 of 2
DRAWN BY: XG
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urbansurvey@urbaneng.com



Job No. 19925.C0.02

August 6, 2021

Mr. Andrew Dimas, Senior City Planner
Development Services, City of Corpus Christi
2406 Leopard
Corpus Christi, TX 78408

Subject: Hemmingway Townhomes Unit 1 (Sidewalk Waiver Request)

Mr. Dimas

We, Urban Engineering, on behalf BoCo Development Company, LLC, hereby request a waiver for the sidewalk construction requirement, as part of the plat review of the subject property. As allowed under Section 3.8.3.D of the Unified Development Code (UDC), we are requesting a waiver to Sections 8.1.3 and 8.1.4 based on the following reasons:


- This development is a gated-townhomes community with private streets. The streets will be similar to those in Sandy Creek. The granting of the waiver is not detrimental to the public health, safety or general welfare, nor is it injurious to other property in the area, or to the City in administering the UDC.
- The granting of the waiver would not substantially conflict with the Comprehensive Plan or the purposes of the UDC.
- The conditions that create the need for the waiver shall not generally apply to other property in the vicinity;

RECEIVED

♦ 06 AUG 2021 ♦

City of Corpus Christi
Development Services

Thank You,



Xavier Galvan