



DRIPPING SPRINGS
Texas

Hardy Tract: Taking Assessment Appeal

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BACKGROUND – HARDY TRACT

- The City of Dripping Springs has required, due to site development and fire requirements, that the project commonly known as the Hardy Tract build a road, including sidewalks and drainage.
- The property owner requested a Takings Assessment.
- Takings Assessment, drafted by City Engineer Chad Gilpin, supported the required infrastructure.
- Hardy Tract applied for variances to request relief from the sidewalk requirements. They were partially approved to allow sidewalks on only one side of the Hardy Road. The remaining variances were denied.
 - Final decision on August 27, 2024
- The developer then appealed the Takings Assessment to the City Council.



Takings Assessment Appeal Process

- **Appellant (Developer) can appeal the Takings Assessment at any time by setting a Notice of Appeal.**
- **Once the item is placed on the City Council Agenda, the Appellant (Developer) may submit any written information to include in the City Council's Packet by the Wednesday before the meeting.**
- **At the meeting: A public hearing on an appeal shall proceed in the following order:**
 - (1) a report from City staff including outline of the Takings Assessment;**
 - (2) a presentation by the appellant;**
 - (3) public hearing by persons supporting the appeal;**
 - (4) public hearing by persons opposing the appeal; and**
 - (5) a rebuttal by the appellant.**
- **At the public hearing, each speaker receives 2 minutes similar to Presentation of Citizens.**
- **After the item, the Appellant can choose to submit the item or submit additional information for up to ten (10) additional days.**
- **Once all testimony and documentation is submitted, the City Council has 30 days to issue its opinion.**
 - **Staff recommends that deliberation occur at the next meeting.**
- **Appellant then has 30 days to appeal the City Council's decision to district court if it wishes to do so.**

Takings Assessment Analysis

In order for the required infrastructure to be upheld as stated in the Takings Assessment, the City must show that the requirements:

- (1) are for legitimate government purposes; and
- (2) are roughly proportional to the impact of the development.

The assessment must show that “the developer’s portion of the costs [does] not exceed the amount required for infrastructure improvements that are roughly proportionate to the proposed development” for the improvements to be legally required by the City.

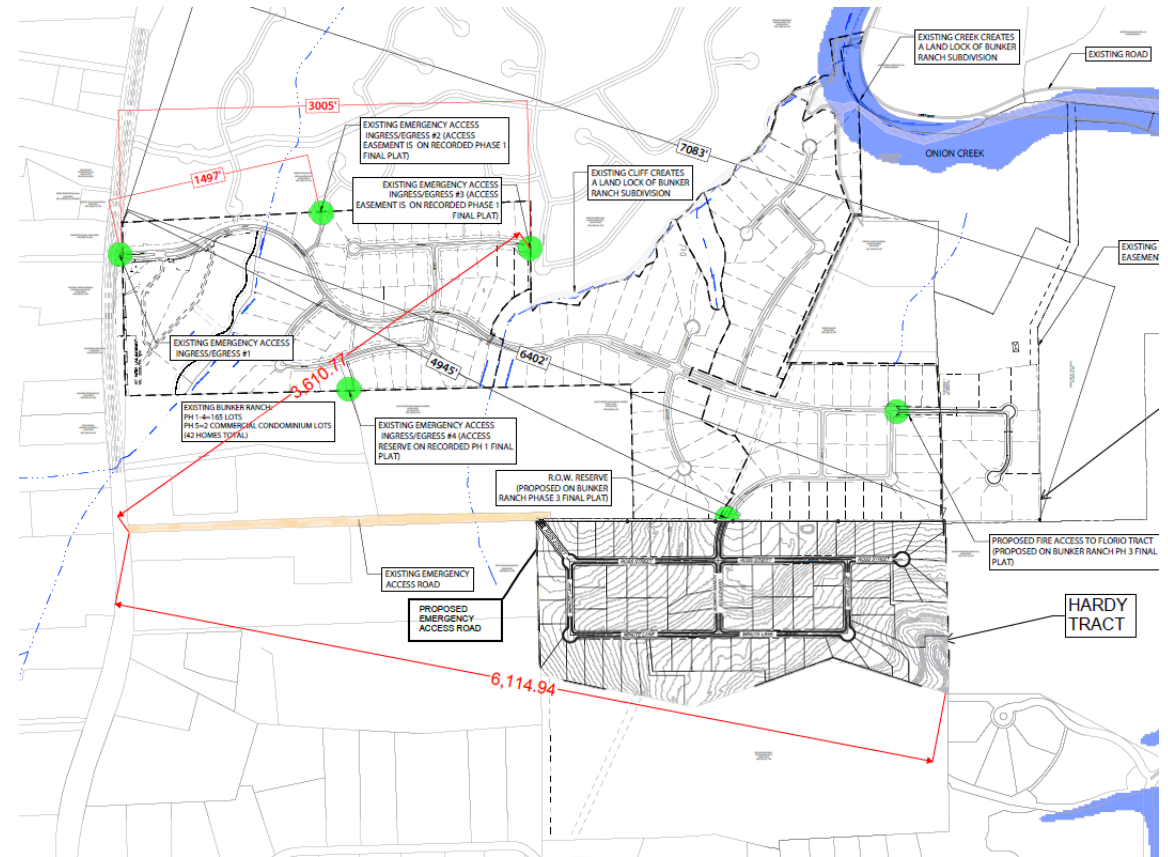
Difference to Variance Analysis:

In Variance review, cost of infrastructure is not analyzed as part of the undue hardship review. Takings/Rough Proportionality does anticipate analysis of the cost of the infrastructure.

REQUIRED IMPROVEMENTS

- **Two points of ingress and egress – Fire and City Requirement**
- **Two lane rural road: twenty-four foot (24 ft) road (26 ft if the development includes multi-family) – Subdivision Ordinance --11.3.4**
- **Five (5) foot sidewalk on one side (based on partial approval of variance)**
- **Drainage improvements required to meet the Water Quality and Drainage mitigation as required by the Water Quality Ordinance Article 22.05.**
- **These improvements are to service the development and are not required to be oversized for any other development.**
- **There is no requirement for dedication of right-of-way or easement for the City or any other entity.**

ROADWAYS



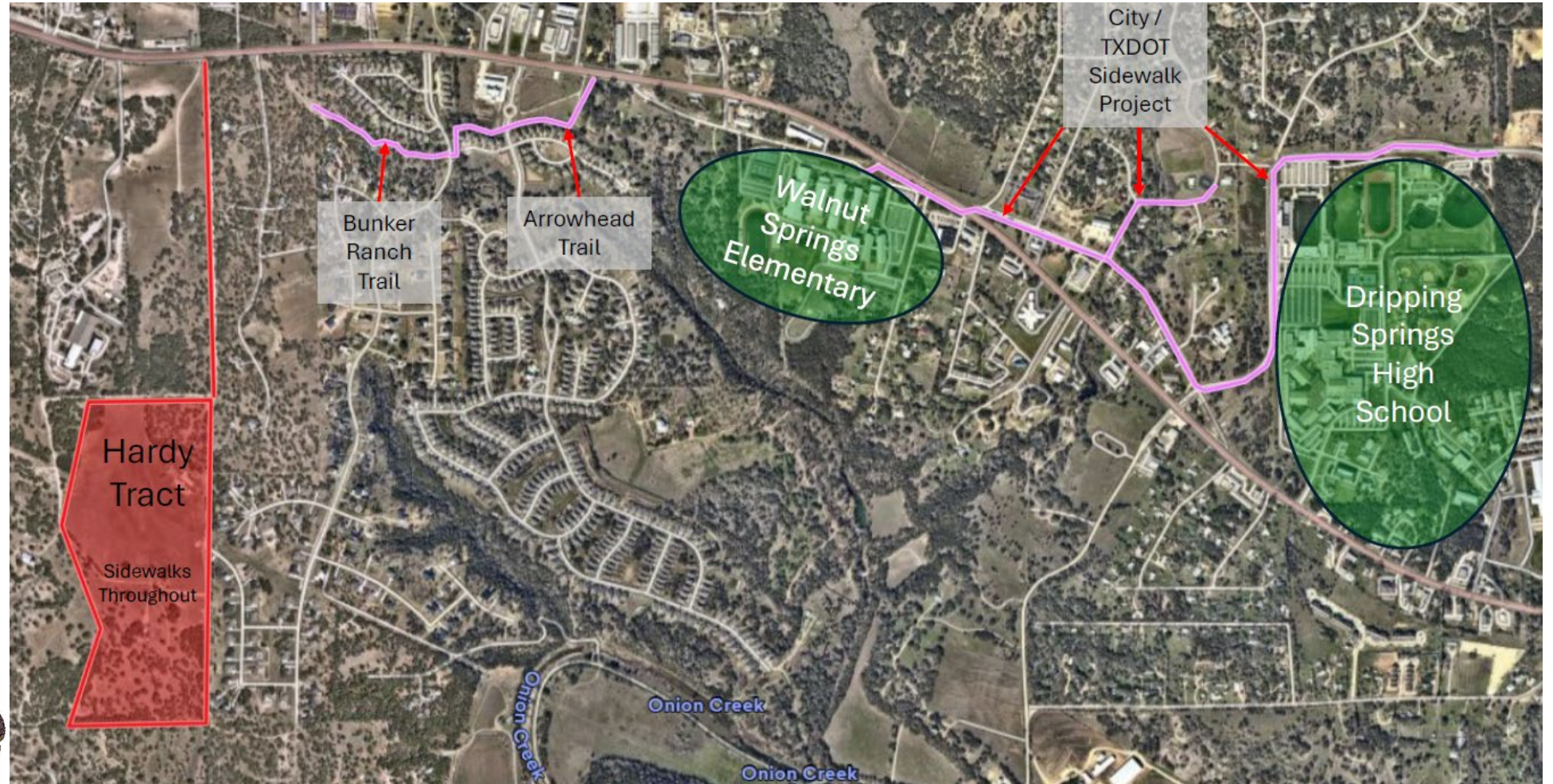
- The purpose of requiring two points of vehicular access is to provide safety and adequate traffic circulation to the residents of the subdivision.
- The other purpose of requiring two points of vehicular access is to provide adequate fire access based on remoteness.
- Fire Code – Section D104.3 – Remoteness
“Where two fire apparatus access roads are required, they shall be placed a distance apart equal to not less than one half of the length of the maximum overall diagonal dimension of the lot or area to be served, measured in a straight line between accesses.”

Drainage

- **The requirement of adequate drainage and water quality is to ensure that any required or planned improvements do not burden other private or public parties with adverse stormwater flows.**
 - **In addition, it aids in protecting all waterways in the area from pollutants.**

Sidewalks

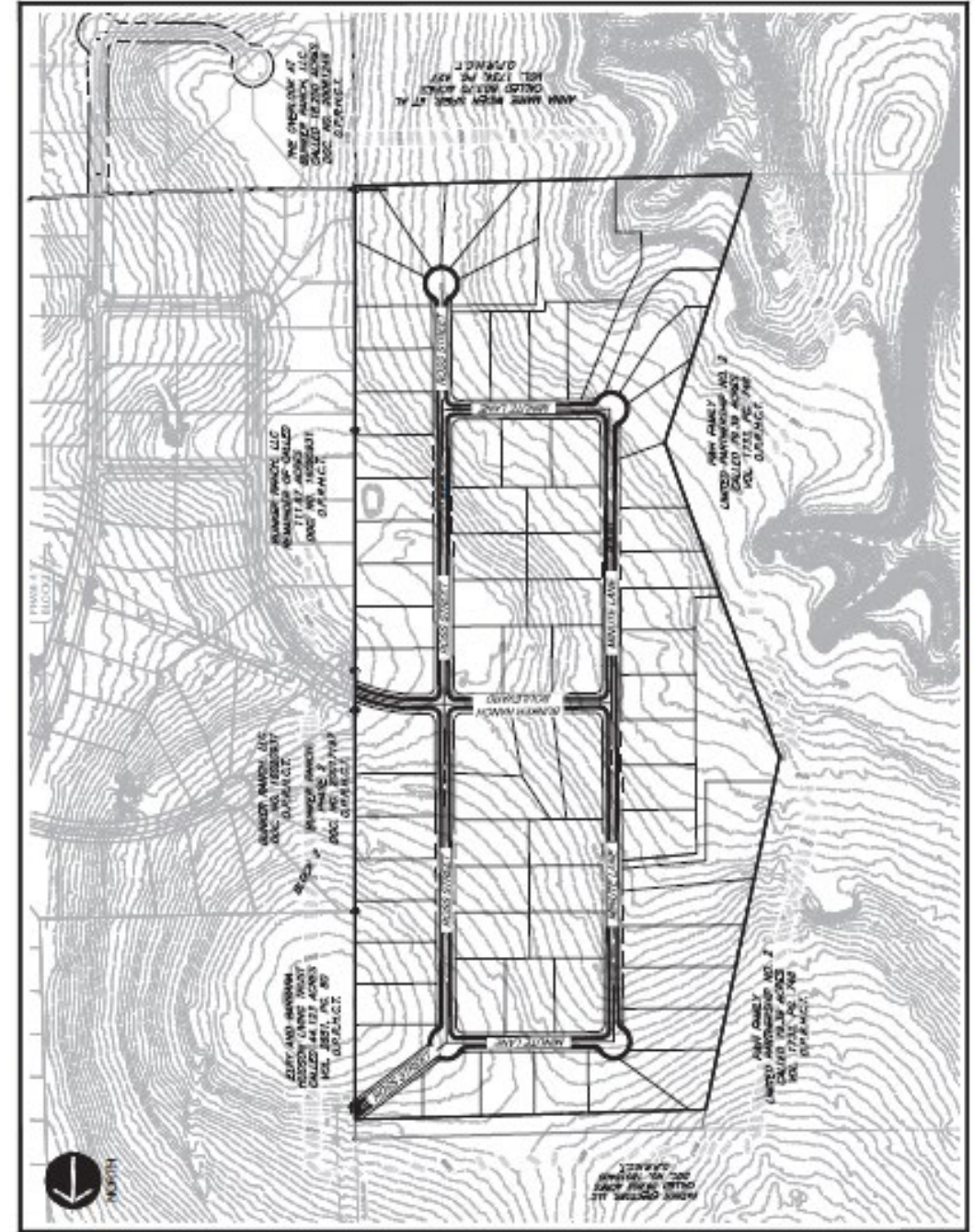
The requirement for sidewalks is to provide pedestrian access to the subdivision that provides a safer alternative than walking in the roadway itself.



IMPACT OF DEVELOPMENT

The Hardy Tract is 78 acres and will add an additional seventy-five lots.

- This roadway is only for the residents of this development and does not have to be open to the public.
- The infrastructure required only meets minimum city and fire requirements.
- Detention and Water Quality are required by the Hardy Tract subdivision to mitigate increased flows to neighboring properties caused by the roadway.
- The sidewalk is only required for one side of the road and is near trails and the middle school/high school sidewalk project.



ALTERNATIVES

- The development could build a second point of access in another part of the development.
- In addition, the City has offered to review the possibility of allowing drainage to be stored on an adjacent agricultural lot.

CONCLUSION AND RECOMMENDATIONS

- **The City and Fire is open to limiting the roadway to twenty-four feet so long as no multi-family is built in this development or adjacent to this roadway.**
- **The City is not requiring that the development pay for any additional city infrastructure or fees that are not the minimum required by the number of lots and acres within this subdivision.**
- **The City is not requiring any right-of-way dedication or easement to the City or any other entity.**
- **The Hardy Drive and related infrastructure is not for the public or the City, it is solely to benefit the safety of the future residents of the proposed development.**

CONCLUSION AND NEXT STEPS

Staff Recommendation:

The City Engineer and staff found that the required infrastructure was roughly proportional to the impact of the development as it is the minimum required for the size and type of development.

Next Steps:

For the City Council to consider the appellant's arguments and the City Engineer's Takings Assessment and determine whether the required infrastructure is a taking.

Appellant can request up to 10 additional days to submit written information.

Decision must be issued by City Council within 30 days of the final submission of testimony and written information. Staff recommends deliberation occur at Council's next meeting.

Questions?