




To: Jamie Rose

From: Chad Gilpin, P.E.,  City Engineer; Laura Mueller, City Attorney

Date: May 2, 2024

RE: Takings Impact Assessment for Required Infrastructure for the Hardy Tract

INTRODUCTION

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 as specified in Exhibit “A.” The property owner has requested a Takings Impact Assessment related to this requirement. For the City to impose this requirement it must show that “the required dedication is related both in nature and extent to the project’s anticipated impact, though a precise mathematical calculation is not required.”¹ This assessment will show that the road requirement is roughly proportional to the impact of the Bunker Ranch/Hardy Tract project.

REQUIREMENTS

The City, in consultation with the Fire Department (North Hays County Fire – ESD), requires a minimum twenty-six (26) foot roadway and a five (5) foot sidewalk on one side. This was based on the representation by the developer that multi-family may be placed on the tract. If no multi-family is on the tract, the roadway only must be twenty-four (24) feet. This is a fire requirement. Section 11.3.4 of the City Subdivision Ordinance requires all subdivisions with fifty (50) or more lots or units have at least two points of vehicular access and must be connected via improved roadways. The standard is to require sidewalks on both sides of the roadway, but the City waived the requirement for the second side on request of the developer in return for payment of fee-in-lieu. In addition, drainage improvements are required, but are only those needed to meet the Water Quality and Drainage mitigation as required by the Water Quality Ordinance Article 22.05.² The extent of the drainage improvements are only those that directly affect the required roadway and the sidewalk. These improvements are not required to be oversized for any other development.

The purpose of requiring two points of vehicular access is to provide safety and adequate traffic circulation to the residents of the subdivision. The subdivision ordinance is attached as Exhibit “A.” 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. The Ordinance adopted Article 22.05 is attached to this assessment as Exhibit “C.” The remoteness requirement is from the Fire Code Section D106.3. It is attached as Exhibit “B.” These required improvements

¹ *Dolan v. City of Tigard*, 512 U.S. 374, 391 (1994).

² All references to Ordinances or Sections are to the City of Dripping Springs Code of Ordinances unless otherwise stated. City of Dripping Springs Code of Ordinances are available on the City’s website and municode.com.

are reasonably related to and accomplish the legitimate municipal goal of public safety while ensuring that neighboring properties are not burdened by new development.

The roadway only needs to be twenty-four (24) feet in width unless multi-family is built adjacent to the roadway. This is the minimum for any subdivision within the City of Dripping Springs. Fire requires twenty-six (26) feet if there will be multi-family.

IMPACT OF DEVELOPMENT

The Hardy Tract will add an additional seventy-five lots. In addition, the development is seventy-eight acres. This roadway is only for the residents of this development and does not have to be open to the public. In addition, the City is not asking that it be oversized to meet the needs of the public in general, only to meet the 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 issue of the expense of the drainage is the fact that the second access point, the roadway in question, is between two parcels that are currently not owned by the developer. This requires that the drainage, sidewalk, and roadway must be included in their owned property.

DISCUSSION AND ANALYSIS

The requirements the City and Fire require are the minimum for roads and drainage for any residential development. In addition, the minimum normally required for a sidewalk on a two-lane rural roadway (which is the roadway required by the City) is five feet on both sides. The City waived the requirement that the sidewalk be on both sides, instead only requiring it on one side. These requirements are required for safety and are also sized to an extent appropriate to a development of this size. The nature of a subdivision as proposed is a two-lane rural road with sidewalks including adequate drainage.

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. Finally, the developer could also appeal the partial waiver of the sidewalk to the Planning & Zoning Commission.

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. If any other variances or waivers are requested, or decisions to be appealed, the processes must be followed. 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 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.