



Planning and Zoning Commission

Planning Department Staff Report

Planning and Zoning Commission Meeting:

August 27, 2024

Project No:

VAR2022-0006

Project Planner:

Tory Carpenter, AICP, Planning Director

Item Details

Project Name:

Hardy Subdivision Sidewalks

Property Location:

2901 W US 290 – Dripping Springs, TX

Legal Description:

78.021 Acres out of the Benjamin Hannah Survey

Applicant:

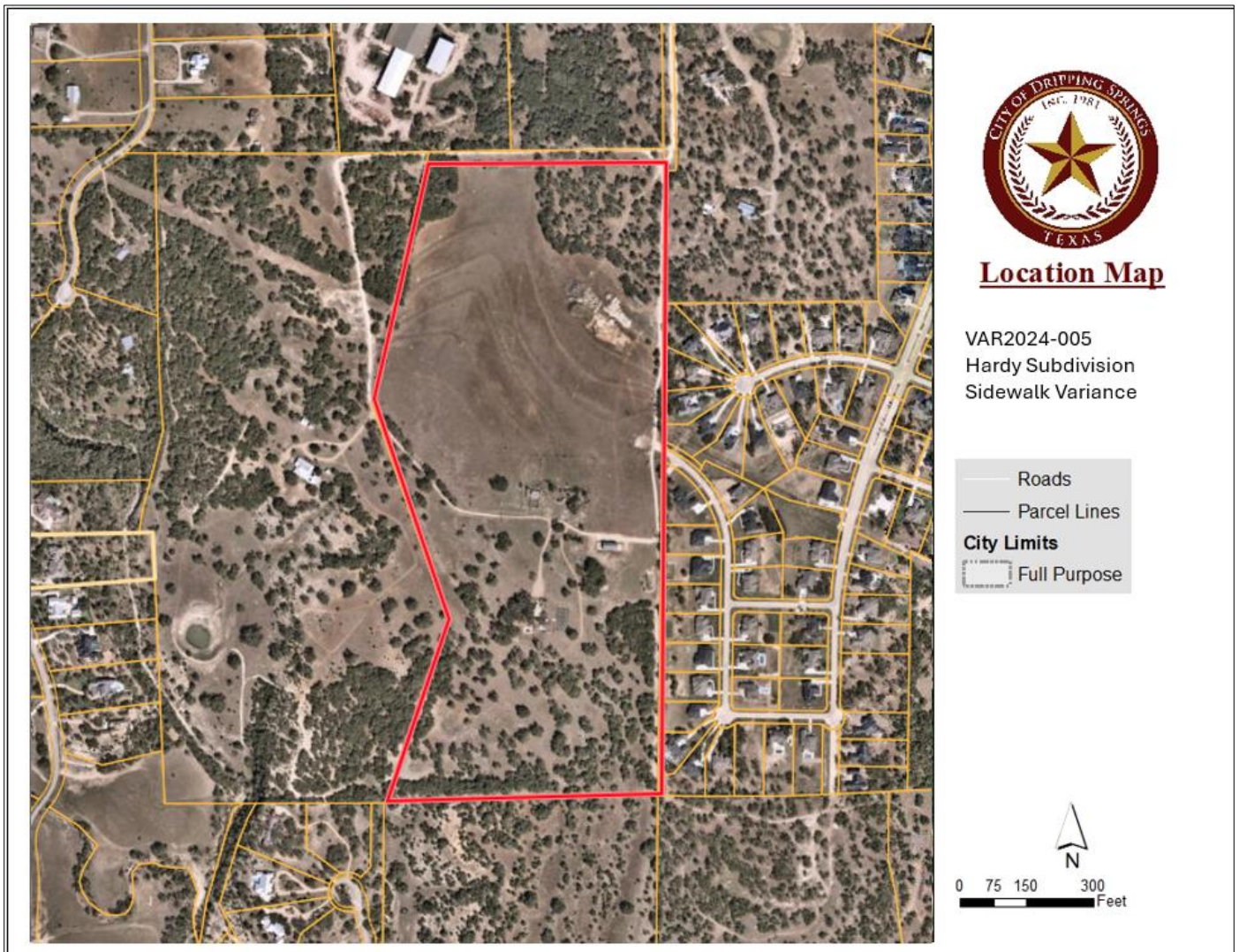
Brian Estes

Property Owner:

Steve Harren

Request:

The applicant is requesting a variance to the sidewalk requirements.



Planning Department Staff Report

Overview

The applicant applied for construction plans for public infrastructure associated with the Hardy Subdivision. The subdivision includes 75 residential lots which will be accessed via the existing Bunker Ranch development and the required private road extending to US 290.

City ordinance requires that a 5 foot sidewalk be constructed on each side of each road. Alternatively, the applicant may request a fee in lieu of sidewalk construction to be determined by the Development Review Committee which consists of various department heads and the City Administrator. While the Hardy Subdivision is within the City Limits, the road associated with this request is in the ETJ.

In 2022, the applicant applied for a fee in lieu of sidewalks within the development for the subdivision which was considered by the Development Review Committee. The Committee voted to give the applicant the following options:

1. Construct a 5' sidewalk on each side of all roads, meeting the minimum code requirement;
2. Construct an 8' sidewalk on one side of each road and pay a fee in lieu of the remaining 2' not being constructed;
or
3. Construct a 10' sidewalk on one side of each road.

In 2024, the applicant applied for a variance to the sidewalk requirement requesting to not construct or pay a fee in lieu for sidewalks within the subdivision. This variance was denied by the DRC.

The applicant has appealed this decision which requires Planning & Zoning Commission action.

The applicant provided the following justification for the request:

Applicant Justification	Staff Comments
<p>Trees: “The developer estimates that approximately 75 trees over 12” would have to be removed for construction of a 24’ road with a sidewalk on the one side currently required by the City. The impacted trees are approximately 70% Oak trees (Live and Red Oak) and the remaining trees are Hardwood Trees (Cedar Elm).”</p>	<p>Sidewalks can meander around trees if necessary to avoid removal.</p> <p>Note that, since the permit was in process prior to the adoption of the updated landscape ordinance, tree mitigation for this road in the ETJ is not required.</p>
<p>“The Natural Rurality of the Neighborhood”</p>	<p>Regardless of the feel of the neighborhood, sidewalks are required to provide adequate pedestrian safety.</p>
<p>“Per the City’s Sidewalk Ordinance, the review committee shall consider proximity to the nearest existing sidewalk, proximity to public facilities, if nay public sidewalks are planned or contemplated in the area and any other information deemed appropriate by the development review committee.”</p>	<p>The DRC considered proximity of existing sidewalks. There are currently trails throughout the northern portion of Bunker Ranch which extend east of the development towards Tiger Lane. There are also sidewalks under construction along US 290 beginning at the entrance of Walnut Springs Elementary School. As other properties develop along US 290, or we receive more funding for sidewalks in this area, there will eventually be a sidewalk connecting the Hardy Road/US 290 intersection with existing sidewalks in the area.</p>
<p>Fire Requirements: The sidewalk requirements are not required by Fire Code or the Fire Marshal. The only requirements for safety are that the “access easement” complies with the “width, horizontal, clearance, load bearing, and gating requirements of the County Fire Marshal.” The Fire Marshal conditionally approved the plans with no reference or requirements to a need for sidewalks. Further, the required sidewalk would dead-end into Highway-290’s</p>	<p>Sidewalks are required per the City subdivision ordinance and not fire code.</p> <p>Additionally, it’s not uncommon for sidewalks to temporarily end in an area without sidewalks. As other properties develop and there are more sidewalk projects in the area, the sidewalks will eventually connect along US 290.</p>

Planning Department Staff Report

<p>dangerous traffic, thus decreasing safety for pedestrians.”</p> <p>Environmental: “The sidewalk requirements would harm the land. Section 11.2 of the City's Subdivision Ordinance requires that street systems shall "minimize the amount of land area that is disturbed during construction, thereby helping to reduce stormwater runoff and preserve natural, scenic characteristics of the land." Constructing sidewalks will require many large trees be cut down and pouring thousands of square feet of concrete, increasing stormwater runoff which will necessitate large stormwater drainage systems, thereby disturbing natural, scenic characteristics of the land.”</p>	<p>While a sidewalk along one side of the road would increase impervious cover, the developer is required to provide drainage facilities to account for all impervious cover.</p>
<p>Public Benefit: “The sidewalks have no public benefit. The Hardy Driveway, and any sidewalks, are on a private, gated, drive to be used for emergency services by the County, and not the public at large. There are no other public sidewalks built, or even proposed and/or funded, that would connect the sidewalks to any part of the City’s sidewalk system. Thus, granting the variance would not prevent the orderly development of other land in the area. And the City has never said the sidewalks are required to reduce traffic congestion. These sidewalks-to-nowhere have no purpose, no benefit, and would cost more than four million dollars to construct. The fees in lieu on one side alone are hundreds of thousands of dollars, so under the circumstances imposing fees in lieu deprives applicant of reasonable use of the land. Further, the requirement could not constitutionally accomplish the purported reason for or be reasonably related to the imposition of the fee.”</p>	<p>Assuming sidewalks are required along the Hardy Road to US 290, sidewalks within the subdivision would connect directly to the Hardy Road sidewalks. This would provide a connection to US 290 and nearby sidewalks at Walnut Springs elementary. Once other properties are developed along US 290, or when the City receives funding for sidewalks in this area then the sidewalks will ultimately connect to the Elementary School.</p> <p>The road will not be solely used as emergency access. The subdivision ordinance requires that subdivisions greater than 50 lots or units must have at least two points of vehicular access and must be connected via improved roadways.</p>

Required Findings for Site Plan Variance (28.04.015-Zoning Ordinance)

Approval Criteria	Staff Comments
<p>1. That there are special circumstances or conditions affecting the land involved such that the strict application of the provisions of this article would deprive the applicant of the reasonable use of this land;</p>	<p>While the site is heavily treed, the applicant has the ability to meander any required sidewalks to avoid removal of certain trees.</p>
<p>2. That the variance is necessary for the preservation and enjoyment of a substantial property right of the applicant;</p>	<p>This variance is not necessary for construction of the road.</p>
<p>3. That the granting of the variance will not be detrimental to the public health, safety or welfare, or injurious to other property in the area; and</p>	<p>Granting of this variance could be detrimental to public welfare by not providing adequate pedestrian infrastructure.</p>
<p>4. That the granting of the variance will not have the effect of preventing the orderly development of other land in the area in accordance with the provisions of this article.</p>	<p>Sidewalks are required for new development and the granting of the variance would be inconsistent with this requirement and surrounding development requirements.</p>

Summary and Recommendation

Planning Department Staff Report

Based on the above findings, staff finds that the intent of the code is not being met and recommends denial of the variance.

If the Commission chooses to approve the variance, staff recommends that a condition be added requiring all construction traffic associated with the Development of the Hardy Tract use the Hardy Road associated with this request and not use Bunker Ranch Blvd.

Additionally, the Planning & Zoning Commission can consider requiring all, or a partial fee in lieu amount equal to the required sidewalks as a condition of approval.

Note that the Planning & Zoning Commission makes the final decision for appeals to site plan variances.

Public Notification

A notice of the public hearing was posted to the City's website, letters were sent to all property owners within 200 ft, and a notice was posted in the newspaper.

Staff received several comments from residents of Bunker Ranch whose primary concern was construction traffic for the road and Hardy Subdivision. These letters are included in the packet.

Attachments

Exhibit 1 – Variance Application

Exhibit 2 – Site Development Permit.

Recommended Action	Deny the requested variance.
Alternatives/Options	Approve the requested Variance
Budget/Financial impact	N/A
Public comments	None received at this time
Enforcement Issues	N/A
Comprehensive Plan Element	N/A