

# STAFF REPORT



**SUBJECT:** Case No.: SV2023-003

Applicant Niraj Patel, representing DNJ’s Investment, LLC, is requesting an appeal for a Subdivision Waiver denial regarding Section 155.6.11 – Sidewalk Requirements, to be constructed at 3015 Northwest Loop, Parcel R63719, Acres 2.730, S2600 CITY ADDITION;, BLOCK 161;, LOT 1; of the City of Stephenville, Erath County, Texas.

**DEPARTMENT:** Development Services

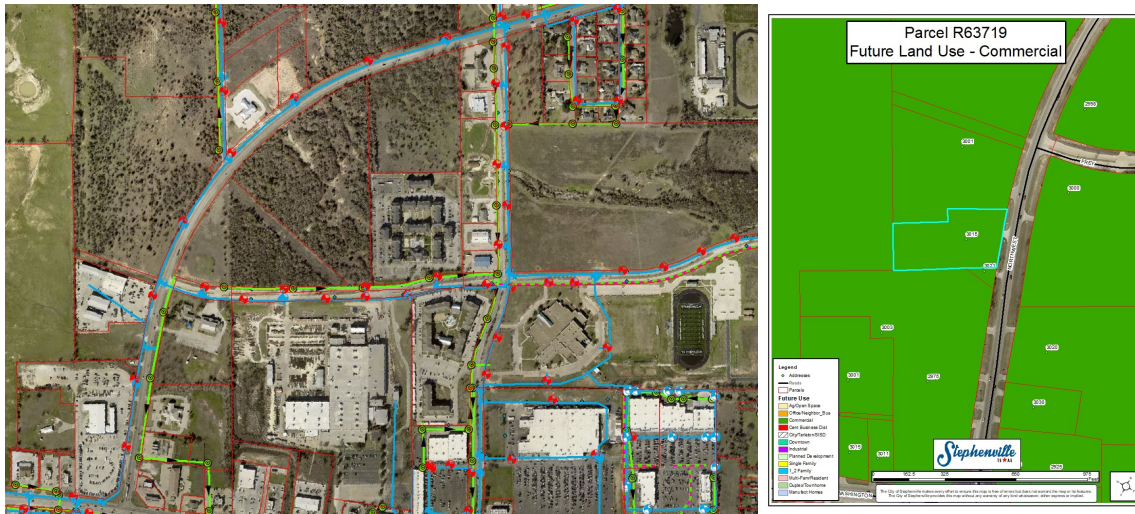
**STAFF CONTACT:** Steve Killen

**RECOMMENDATION:**

To deny the appeal based on the requirements set forth by the Subdivision Ordinance.

**BACKGROUND:**

On October 9, 2023, Niraj Patel representing DNJ Investment, LLC submitted Minor Subdivision Waiver requests from Subdivision Ordinance Sec. 155.6.11. – Sidewalks and Sec. 155.6.04(M) – Curb & Gutter. On October 19, 2023, Mr. Patel was informed that the Curb and Gutter waiver request was approved, but the Sidewalk waiver request was denied. Subsequently on November 21, 2023, Mr. Patel submitted a letter to the City Manager requesting an appeal to the Minor Subdivision Waiver denial. Section (J) of the Sidewalk Subdivision Ordinance Sec. 155.6.11. allows for an appeal to be submitted within thirty (30) calendar days following the denial decision.



**SUBDIVISION ORDINANCE/SIDEWALKS**

Sec. 155.6.11. - Sidewalks.

- A. *Sidewalks and Pedestrian ways are required as a part of Subdivision Plat approval to help the City achieve the following:*
  - 1. Promote the mobility, health, safety, and welfare of residents, property owners, and visitors to the City and to implement objectives and strategies of the Comprehensive Plan,

2. Improve the safety of walking by providing separation from motorized transportation and improving travel surfaces for pedestrians,
3. Improve public welfare by providing an alternate means of access to transportation and social interaction, especially for children, other citizens without personal vehicles, or those with disabilities, and
4. Facilitate walking as a means of physical activity recognized as an important provider of health benefits.

**B. *Sidewalk Location and Design.***

1. Sidewalks shall be constructed for both sides of all streets within the Subdivision.
2. Sidewalks shall be constructed along all lots adjoining dedicated streets, along Major Arterial/Thoroughfare Streets where lots do not adjoin the street, across power line easements and in other areas where pedestrian walkways are necessary.
3. Routing to clear poles, trees or other obstacles shall be subject to City Administrator approval.
4. The Plat or Construction Plans shall show the location of all proposed sidewalks and shall state at what stage of the project they will be constructed.
5. All sidewalks shall conform to Federal Americans with Disabilities Act (ADA) requirements and barrier-free ramps should be provided for access to the street.

**C. *Sidewalk General Construction.***

1. Sidewalks shall be constructed by Class "A" concrete and shall have a width of not less than five (5) feet and a minimum thickness of four (4) inches.
2. Sidewalks along Major Arterial/Thoroughfare Streets shall be no less than six feet (6') in width.
3. Sidewalks adjacent to screening and retaining walls shall be five (5) feet in width and shall abut the wall, eliminating the landscape area found along the wall, thereby reducing maintenance.
4. Sidewalks shall be constructed one foot (1') from the property line within the street or Major Arterial/Thoroughfare Street Right-of-Way and shall extend along the full street frontage including both sides of corner lots and block ends.
5. Construction of sidewalks adjacent to curbs will be considered where driveway entrances are constructed from the rear of lots on each side of the street for the full length of the block or where mountable curbs are installed. In these instances, the sidewalks shall be a minimum of five feet (6') wide.
6. Sidewalk construction may be delayed until development of lots, but in locations not adjacent to lots and across bridges and culverts, the sidewalk shall be constructed with the other improvements to the Subdivision.

**D. *Sidewalks in Nonresidential Areas.*** Sidewalks in nonresidential areas shall be a minimum width of five feet (6') or extend from the back of the curb to the building line as required by the City.

**Sec. 155.7.01. Petition for subdivision waiver.**

**3. *Waiver from the Requirements for Sidewalks, Curbs, and/or Gutters.***

- a. The City Manager, Assistant City Manager, and the Director of Development Services are authorized to grant waivers for Sidewalks, Curbs, and/or Gutters under the following conditions:
  - i. The property was platted prior to March 1, 2021; and
  - ii. The property is located outside of the City of Stephenville's Sidewalk Improvement Area as defined in Resolution No. 2019-R-05.
- b. Waivers requested that do not qualify under the conditions outlined in Section 3.a. above must follow the procedure for a Major Subdivision Waiver.

- c. Applicants whose request for waiver is denied by the City Manager, Assistant City Manager, or the Director of Development Services may appeal this decision. Appeals under Section 3 will follow the procedures for appealing a Minor Subdivision Waiver as set forth in Section J.
- d. All approved waivers require the payment of a fee equal to 25% of the total improvement cost as determined by the city's current bid contract for such improvements. Fees collected will be dedicated to the City's Sidewalk Cost Share Program.

J. *Minor Subdivision Waiver Appeal.*

1. *Initiation of an Appeal.*

- a. The Applicant may appeal a Minor Subdivision Waiver decision of the City Administrator, as allowed within the Subdivision Ordinance.
- b. The written request to appeal shall be submitted to the City Administrator within thirty (30) calendar days following the denial decision.

2. *Recommendation of the Planning and Zoning Commission.*

- a. The Commission shall consider the appeal at a public meeting no later than thirty (30) calendar days after the date on which the notice of appeal is submitted to the City Administrator.
- b. At this meeting, new information may be presented and considered, if available, that might alter the previous decision to deny the Minor Subdivision Waiver.
- c. The Commission shall recommend to the City Council to affirm, modify or reverse the previous decision by simple majority vote.

3. *Appeal to City Council.*

- a. The Applicant may appeal the Commission's decision by submitting a written notice of appeal to the City Administrator within thirty (30) calendar days following the Commission's decision.
- b. After the recommendation from the Commission has been made, the City Council shall consider the appeal at a public meeting no later than thirty (30) calendar days after the date on which the Commission's recommendation was made.
- c. The City Council may affirm, modify or reverse the decision by simple majority vote.
- d. The decision of the City Council is final.

**FACTORS TO CONSIDER:**

- Compliance with Comprehensive Plan?
- Is application consistent with Plan?
- If not, have conditions changed or new information been offered to support change?
- Surrounding Zoning and Land Use
- Infrastructure Impacts
- Size and Location of Parcel - is land large enough and in proper location for proposed use?
- Reasonable Use of Property - does proposed change provide reasonable use of property?

**ALTERNATIVES**

- 1) Recommend the City Council approve the waiver request.
- 2) Recommend the City Council deny the waiver request.