

**City Council  
Agenda Memo**



**City Council  
Meeting Date: 8/8/2013**

**TO: Larry D. Gilley, City Manager**

**FROM: Jon C. James, AICP  
Director of Planning and Development Services**

**SUBJECT: Appeal of a denial of a sidewalk waiver for Bella Vista Estates, Section 4.**

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**GENERAL INFORMATION**

The Bella Vista Estates, Section 4, located south of Beltway S. and east of Buffalo Gap Rd, is the next addition to the Bella Vista Estates subdivision. The proposed new phase requires approval of a plat. Section 3.2.13.4 (a) of the Land Development Code (LDC) requires for the provision of sidewalks along both sides of all new streets as part of a plat. The applicant is requesting a waiver of the sidewalk requirement for this new phase.

This request was reviewed by both the Planning Director and City Engineer. They determined that there was not reasonable justification for granting the waiver. Several justifications were provided in the applicant's letter; however, the justifications either did not apply to the situation or lacked sufficient substance to grant the waiver request.

**STAFF RECOMMENDATION**

Based on the information provided by the applicant, staff continues to recommend denial of the waiver of the sidewalks in the neighborhood.

**ATTACHMENTS**

Request for sidewalk waiver (June 12, 2013)  
Staff response to request (July 26, 2013)  
Exhibit

Prepared by:

Name: Jon James

Title: Planning Director

July 26, 2013

Item No. \_\_\_\_\_

Disposition by City Council

☐ Approved      Ord/Res# \_\_\_\_\_  
☐ Denied      \_\_\_\_\_  
☐ Other      \_\_\_\_\_

\_\_\_\_\_  
City Secretary

SECTION 4  
BELLA VISTA ADDITION  
ABILENE, TAYLOR COUNTY, TEXAS

OWNER:  
RWL, L.P.  
7966 HWY 83/84  
ABILENE, TEXAS 79606  
(325) 690-1825

ENGINEER:  
ENPROTECHIBBS & TODD, INC.  
402 CEDAR STREET  
ABILENE, TEXAS 79601  
(325) 698-5560



SIGNATURE  
  
(PRINT)  
REGISTERED PROFESSIONAL LAND SURVEYOR

GENERAL NOTES  
SHEET **1** OF **1** SHEETS ACREAGE **13.263**  
SCALE **1" = 100'** SMALLEST LOT **11,050** SQ FT LARGEST LOT **119,207** SQ FT  
LOT WIDTH MIN \_\_\_\_\_ MAX \_\_\_\_\_ LOT DEPTH MIN \_\_\_\_\_ MAX \_\_\_\_\_  
(SYMBOL) \_\_\_\_\_ (SYMBOL) \_\_\_\_\_ (SYMBOL) \_\_\_\_\_

SURVEYOR CERTIFICATE AND PLAT DESCRIPTION

CERTIFICATION :  
I HEREBY CERTIFY THAT THE PLAT SUBMITTED HERewith REPRESENTS A TRUE SURVEY MADE BY THE UNDERSIGNED OR UNDER MY SUPERVISION ON THE GROUND AND THAT PERMANENT MARKERS AND MONUMENTS HAVE BEEN SET AS INDICATED ON THE PLAT AND IN ACCORDANCE WITH THE "SUBDIVISION REGULATIONS" OF THE CITY OF ABILENE.

PLAT DESCRIPTION :  
**SECTION 4  
BELLA VISTA ADDITION  
ABILENE, TAYLOR COUNTY, TEXAS**

ACKNOWLEDGMENT

THE STATE OF TEXAS:  
COUNTY OF \_\_\_\_\_  
BEFORE ME, THE UNDERSIGNED AUTHORITY IN AND FOR SAID COUNTY AND STATE ON THIS DAY PERSONALLY APPEARED

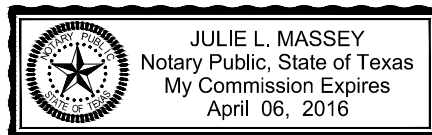
KNOWN TO ME TO BE THE PERSON AND OFFICER WHOSE NAME IS SUBSCRIBED TO THE FOREGOING INSTRUMENT AND ACKNOWLEDGED TO ME THAT THE SAME WAS THE ACT OF THE SAID

A CORPORATION, AND THAT HE EXECUTED THE SAME AS THE ACT OF SUCH CORPORATION FOR THE PURPOSES AND CONSIDERATION THEREIN EXPRESSED AND IN THE CAPACITY THEREIN STATED

GIVEN UNDER MY HAND AND SEAL OF OFFICE THIS THE \_\_\_\_\_

DAY OF \_\_\_\_\_ A.D. 20 \_\_\_\_\_

NOTARY PUBLIC COUNTY TEXAS



OWNER'S CERTIFICATE AND DEDICATION

THE UNDERSIGNED OWNER(S) OF THE HEREINAFTER DESCRIBED REAL PROPERTY HAVE CAUSED SUCH PROPERTY TO BE SURVEYED AND PLATTED AND TO BE SUBDIVIDED INTO BLOCKS, LOTS, STREETS, ALLEYS, UNDER THE NAME OF

SECTION 4  
BELLA VISTA ADDITION  
ABILENE, TAYLOR COUNTY, TEXAS

AS SHOWN ON THE ATTACHED PLAT AND DO HEREBY DEDICATE TO THE PUBLIC FOREVER FOR ALL PUBLIC PURPOSES THE STREETS, ALLEYS, LANES, EASEMENTS, PARKS AND OTHER PUBLIC LANDS SHOWN THEREON THE LANDS INCLUDED WITHIN SUCH PLAT OR SUBDIVISION ARE DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

"FIELD NOTES ATTACHED"

EXECUTED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20 \_\_\_\_\_

OWNER \_\_\_\_\_ OWNER \_\_\_\_\_

OWNER \_\_\_\_\_ OWNER \_\_\_\_\_

PLANNING DIRECTOR

FILED WITH PLANNING DIRECTOR: CITY OF ABILENE, TEXAS

DATE \_\_\_\_\_ FILE NUMBER \_\_\_\_\_

PLANNING DIRECTOR

FEES

COUNTY CLERK

I CERTIFY THAT THE SUBDIVISION PLAT DESCRIBED HEREIN WAS FILED FOR RECORD ON

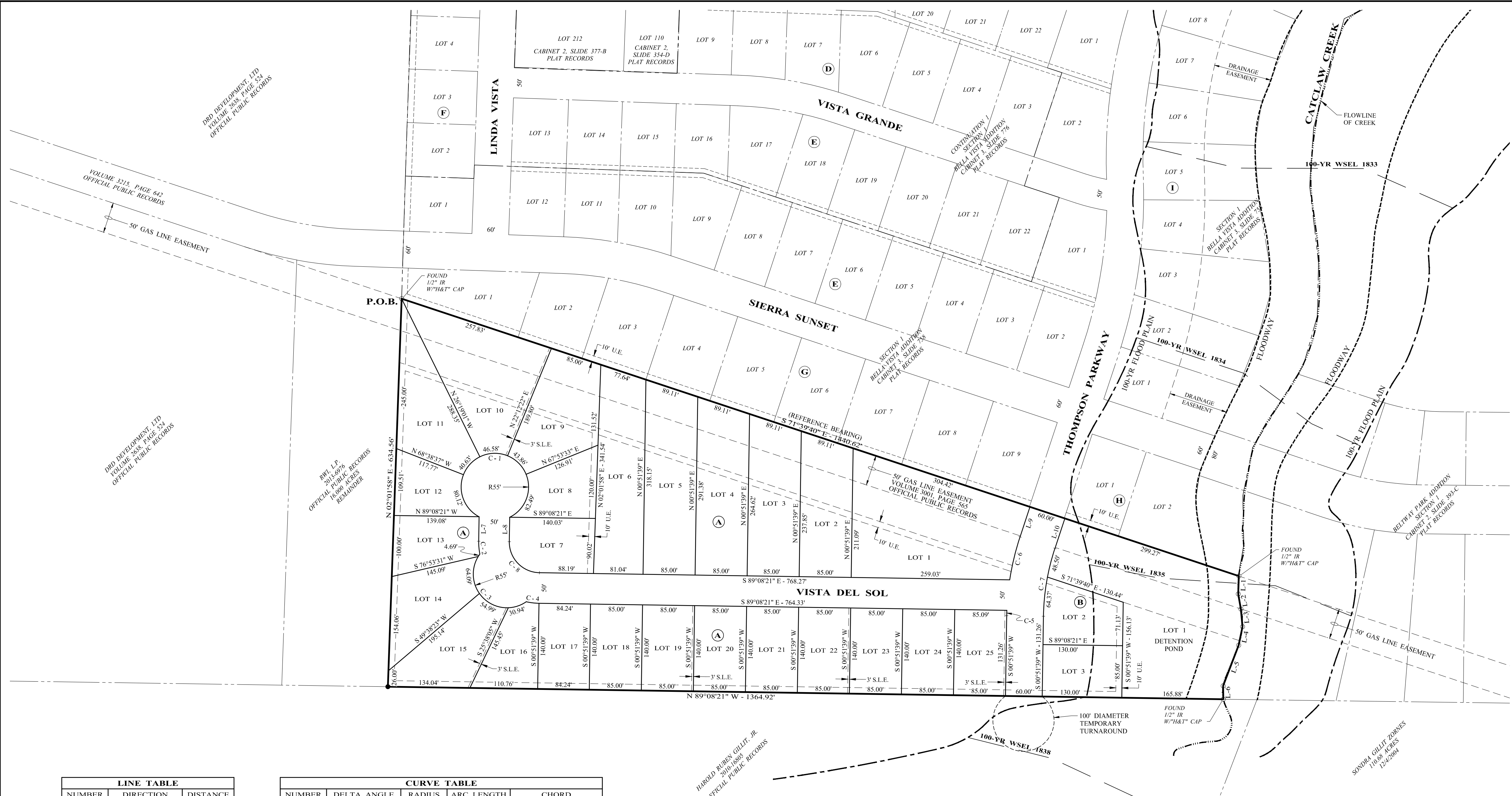
DATE \_\_\_\_\_ FILE NUMBER \_\_\_\_\_

COUNTY CLERK COUNTY TEXAS

DEPUTY

PLANNING COMMISSION  
THIS PLAT IS HEREBY APPROVED BY THE CITY PLANNING COMMISSION OF THE CITY OF ABILENE, TEXAS AND THE COUNTY CLERK IS HEREBY AUTHORIZED TO FILE SAID PLAT IN ACCORDANCE WITH THE PROVISIONS OF ARTICLE 974A, VERNON'S ANNOTATED CIVIL STATUTES, AND ARTICLE 927B PENAL CODE OF TEXAS, AS AMENDED.  
DATE \_\_\_\_\_ CHAIRMAN \_\_\_\_\_  
ATTEST \_\_\_\_\_ SECRETARY \_\_\_\_\_  
DATE \_\_\_\_\_ PLANNING DIRECTOR \_\_\_\_\_

DIRECTOR OF PUBLIC WORKS  
THE DEDICATION FILED, IN CONNECTION WITH THIS PLAT IS HEREBY APPROVED AND ALL STREETS, ALLEYS, AND PUBLIC AREAS SHOWN HEREON ARE HEREBY ACCEPTED ON BEHALF OF THE PUBLIC BY THE DIRECTOR OF PUBLIC WORKS OF THE CITY OF ABILENE, TEXAS.  
DATE \_\_\_\_\_ DIRECTOR OF PUBLIC WORKS \_\_\_\_\_



LINE TABLE		
NUMBER	DIRECTION	DISTANCE
L-1	S 01°41'52\" W	29.40'
L-2	S 09°46'54\" E	25.02'
L-3	S 05°21'38\" E	28.95'
L-4	S 11°53'52\" W	30.98'
L-5	S 20°51'22\" W	70.95'
L-6	S 00°57'34\" E	21.92'
L-7	S 00°51'39\" W	40.00'
L-8	S 00°51'39\" W	40.00'
L-9	S 18°20'20\" W	51.64'
L-10	S 18°20'20\" W	51.64'

CURVE TABLE				
NUMBER	DELTA ANGLE	RADIUS	ARC LENGTH	CHORD
C-1	305°55'43\"	55.00'	293.67'	N 89°08'21\" W - 50.00'
C-2	12°08'24\"	100.00'	21.19'	S 05°12'33\" E - 21.15'
C-3	161°09'50\"	55.00'	154.71'	S 44°08'21\" E - 108.52'
C-4	12°08'24\"	100.00'	21.19'	S 83°04'09\" E - 21.15'
C-5	01°09'53\"	430.00'	8.74'	S 01°26'35\" W - 8.74'
C-6	09°37'36\"	430.00'	72.25'	S 13°31'32\" W - 72.16'
C-7	17°28'41\"	370.00'	112.87'	S 09°35'59\" W - 112.43'
C-8	90°00'00\"	50.00'	78.54'	N 44°08'21\" W - 70.71'

LEGEND

- FOUND 1/2\" IRON ROD WITH \"4&M 4247\" CAP UNLESS NOTED OTHERWISE
- SET 1/2\" IRON ROD WITH CAP STAMPED \"H&T\"
- U.E. UTILITY EASEMENT
- - - DRAINAGE EASEMENT

NOTES:

- AS PER FLOOD INSURANCE RATE MAP, COMMUNITY NUMBER 485450 0332 F, MAP NO. 48441C0332F, EFFECTIVE: JANUARY 6, 2012: A PORTION OF THIS PROPERTY IS LOCATED IN A FEDERALLY DESIGNATED FLOOD AREA.
- BEARINGS ARE BASED ON GRID NORTH AS DETERMINED BY RTK GPS OBSERVATIONS USING THE CITY OF ABILENE'S MONUMENTATION AND MAPPING PROGRAM SURVEY MARKER NUMBER 689 (PUBLISHED COORDINATES OF N 6813587.775, E 1572885.052). FROM THE SAID MARKER, THE POINT OF BEGINNING BEARS 1732.80 FEET SOUTH 32 DEGREES 27 MINUTES 34 SECONDS WEST.
- UPON COMPLETION OF THE CONSTRUCTION OF THE SUBDIVISION STREETS, ALLEYS, AND BURIED UTILITIES, THE FINAL SUBDIVISION MONUMENTATION WILL BE SET. THE MONUMENTATION WHICH WILL BE SET IS AS FOLLOWS: 1/2\" IRON RODS WITH PLASTIC CAPS, STAMPED \"H&T\" WILL BE SET AT ALL OF THE LOT CORNERS. SURV-KAP, INC. ®, 30\" DETACHABLE MONUMENTS WITH 2\" ALUMINUM CAPS, STAMPED \"HIBBS & TODD\", WILL BE SET AT THE SUBDIVISION CORNERS, BLOCK CORNERS, BOUNDARY LINE POINTS OF CURVATURE, AND BOUNDARY LINE ANGLE POINTS. PK NAILS WITH WASHERS WILL BE SET AT THE CENTERLINE INTERSECTIONS OF STREETS, STREET CENTERLINE POINTS OF CURVATURE, STREET CENTERLINE ANGLE POINTS, AND AT THE INTERSECTION OF THE STREET CENTERLINE WITH THE PROJECTED SUBDIVISION BOUNDARY CORNERS. DISTANCES USED FOR THE LOCATION OF THESE MONUMENTS, OTHER THAN STREET CENTERLINE DISTANCES WILL BE NOTED ON THE FACE OF THIS PLAT.
- THIS ADDITION IS LOCATED WITHIN THE CITY LIMITS OF ABILENE, TAYLOR COUNTY, TEXAS.



June 12, 2013

City of Abilene  
P O Box 60  
Abilene, Texas 79604  
Attn: Mr. Jon James, Mr. Chad Carter, P.E.

**Re: Sidewalk Waiver, Bella Vista Estates, Section 4**

Dear Mr. James; Carter:

Please find enclosed a check in the amount of \$250 for a sidewalk waiver request. We are requesting a waiver from sidewalk requirements along Thompson Parkway and Vista Del Sol located in Section 4 of the Bella Vista Subdivision based on the following:

1. Sidewalk Policy Statement: Section 3.2.13.2.(e) in reference to the installation of sidewalks states *"These requirements are intended to apply within the City and its ETJ, **but is not intended to apply to existing single-family residential neighborhoods where sidewalks are not present and have not historically been provided.** These requirements are intended to apply to both public and private streets."*
2. Sidewalk Requirements for Existing Streets: Section 3.2.13.5.(b).(5).(a) states *"(3.2.13.5).(b) Sidewalks shall be required along block faces of existing local streets in any of the following categories or combinations of categories: (5) **Street frontages in all land use zones except the following: (a) Zones intended for single-family residential purposes and where sidewalks are not present. (Example: RS and MH subdivisions).**"*

While not part of the original Preliminary Development Plan (PDP), Section 4 is considered to be part of the overall Bella Vista Subdivision. When the development was originally conceived, sidewalks were not required to be constructed. Four phases of the Bella Vista Subdivision have since been constructed between 2004 and 2011 (the last two phases occurring after the adoption of the current Land Development Code). To date this subdivision contains approximately 140 homes, none of which are served by sidewalks. Additionally, it does not appear that sidewalks are being constructed within the Beltway Park Subdivision located along Sierra Sunset on the east side of Catclaw Creek. Section 4 is clearly an addition to, and part of an existing established subdivision where sidewalks have not been historically required to be built. As it stands, sidewalks constructed in Section 4 will have no viable connectivity to any pedestrian friendly facilities such as churches, schools, etc. unless the City or other entity extends sidewalks along Thompson Parkway to the North and/or along Sierra Sunset to the east and west.

*Environmental, Civil & Geotechnical Engineers*

**Abilene Office**  
402 Cedar  
Abilene, Texas 79601  
P.O. Box 3097  
Abilene, Texas 79604  
325.698.5560 | 325.691.0058 fax

**Lubbock Office**  
6310 Genoa Avenue, Suite E  
Lubbock, Texas 79424  
806.794.1100 | 806.794.0778 fax

**Granbury Office**  
2901 Glen Rose Hwy, Suite 107  
Granbury, Texas 76048  
817.579.6791 | 817.579.8491 fax

**Plano Office**  
One Preston Park  
2301 Ohio Drive, Suite 105  
Plano, Texas 75093  
972.599.3480 | 972.599.3513 fax

www.e-ht.com

PG Firm Registration No. 50103  
PE Firm Registration No. 1151



Mr. Jon James, Mr. Chad Carter, P.E.

June 12, 2013

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Should this request be denied at the Staff level, I would request that this be placed as an agenda item on the July 11, 2013 City Council Agenda.

Please contact me if you have should have any questions.

Sincerely,

**Enprotec / Hibbs & Todd, Inc.**

BJ Prichard, PE

c: Project File: 5416

P:\Projects\Private Developers\2012 Projects\12-5416 Mason Trendsetters - Bella Vista Expansion\060713 City Letter.docx



July 26, 2013

Enprotec/Hibbs & Todd, Inc.  
BJ Prichard  
402 Cedar  
Abilene, TX 79601

**Re: Sidewalk Waiver Request for Bella Vista Estates, Section 4**

Dear Mr. Estes:

We are **denying** your request for a sidewalk waiver. Although Section 3.2.13.2 (e) of the Land Development Code (LDC) exempts “existing single-family residential neighborhoods where sidewalks are not present and have not historically been provided,” this phase of Bella Vista Estates is a brand new subdivision and was not part of the previous platting for Bella Vista Estates. The interpretation of the ordinance, backed by a City Council decision, is that each new subdivision is considered separate and apart from any prior subdivision, regardless of whether that new subdivision shares a name with a prior subdivision and newly subdivided property is in no case considered part of an “existing neighborhood”.

You reference that when the overall development was conceived, sidewalks were not required. However, under the City’s Subdivision Ordinance, there is a process for planning a whole development and locking in the rules in place at that time, which as your letter admits, was not done for the subject tract. You reference that there are approximately 140 homes already built without access to sidewalks, however, there are hundreds of developable acres in this part of the City representing hundreds, if not thousands, of future homes. While the subject tract will be one of the first to construct sidewalks, decades into the future the 140 homes without sidewalks will be the anomaly and will be surrounded the hundreds or thousands of homes in neighborhoods with an intact, connected sidewalk system.

You also reference Section 3.2.13.5(b)(5)(a) which states that sidewalks are required for street frontages in all land use zones except “Zones intended primarily for single-family residential purposes and where sidewalks are not present.” However, similar to the above, this exception is intended for existing neighborhoods that were built without sidewalks, not for newly developing areas. In fact, Section 3.2.13.5 only applies to existing streets and, therefore, would not exempt sidewalks along any new streets in any case.

Finally, you reference the fact that this development will have no viable connectivity to pedestrian destinations. First of all, connectivity between homes within the subdivision represents a primary purpose for sidewalk connectivity and serves an important transportation function even without connectivity outside the neighborhood. However, as developments that are already in progress build planned sidewalks and as the area continues

to develop and future developments also build sidewalks, an interconnected system will develop over time providing the connections that are currently missing. By waiving these sidewalks in this case, one more gap in the sidewalk system would be created.

If you have any questions about this decision, please contact Jon James at 676-6237. If you are not satisfied with this decision, you have the option of appealing this denial to the City Council. Such written appeal must be submitted to the Planning Director within 10 days of this denial and the appeal must provide justification for the requested waiver based on criteria described in Section 3.2.13.6 of the City's LDC (attached). In addition, an application fee of \$250 is required for an appeal to the City Council.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jon James", with a stylized flourish at the end.

Jon C. James, AICP  
Planning Director

A handwritten signature in blue ink, appearing to read "Chad Carter, P.E.", with a stylized flourish at the end.

Chad Carter, P.E.  
City Engineer