

**City Council  
Agenda Memo**



**City Council  
Meeting Date: January 9, 2014**

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

**FROM: Rodney Taylor, Assistant Director of Water Utilities**

**SUBJECT: Discussion Item regarding the Land Development Code, Division 5 – Wastewater, Section 3.2.5.2, The City System.**

**GENERAL INFORMATION**

City staff received a request from a property owner requesting a waiver of the requirement for a new development to connect to the City’s sanitary sewer system per Section 3.2.5.2 of the Land Development Code. The specific language of the code states that “The required extension of municipal sewers may be waived wherever the City Council, **acting on the advice of the Planning Director and the Director of Water Utilities**, or designee, determines that such extension would require unreasonable expenditures and that on-site sewage disposal facilities will function properly.” The intent of the Land Development Code is to require development on the City’s centralized sewer system where feasible.

Staff from Planning and Development Services and Water Utilities Departments reviewed this request and determined that while on-site sewage disposal facilities will function properly, connecting to the City system would **not require unreasonable expenditures**. Therefore, the request was denied. However, City staff also offered to have a professional evaluation of the greater area to determine the feasibility of City financial participation in area system improvements that would reduce the cost burden to this property owner, while protecting the City’s long term interests in the area. Granting a waiver such as this not only affects this immediate case, but also will make it more difficult to serve the greater area as it develops, either increasing the costs to the City of serving future development in the area or making it more likely for adjacent developments to also seek this same waiver.

**SPECIAL CONSIDERATIONS**

The requestor believes that this item should be heard by the City Council for a final decision. However, the language in the Land Development Code (LDC) stipulates that such waiver may only be granted by the City Council when acting upon the advice of the Planning Director and Director of Water Utilities. In contrast to other sections of the LDC, this section does not allow for an appeal to the City Council.

**BOARD OR COMMISSION RECOMMENDATION**

The Planning and Zoning Commission will be discussing this issue at their January 6<sup>th</sup> regular meeting. As a discussion item, no action or formal recommendation will be made.

**ATTACHMENTS**

Letter requesting waiver  
City letter in response denying the waiver request  
Land Development Code, Section 3.2.5.2

Prepared by:  Name: Jon James  Title: Planning Director	Item No. <u>7.9</u>	Disposition by City Council <input type="checkbox"/> Approved    Ord/Res# <input type="checkbox"/> Denied        _____ <input type="checkbox"/> Other  _____ City Secretary
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October 8, 2013

City of Abilene  
P O Box 60  
Abilene, Texas 79604  
Attn: Mr. Tommy O'Brien, P.E. and Mr. Jon James

**Re: Waldrop Estates**

Dear Mr. O'Brien and Mr. James:

As per Section 3.2.5.2, The City System of the Land Development Code, please accept this letter as a request not to extend sanitary sewer to the proposed development, Waldrop Estates. The developers wish to install on-site sewage disposal facilities.

The proposed development consists of 14 lots, 1 acre or larger. Topography prevents connection to the existing sewer system to the south and east of the development. The closet sewer to this development is the line just south of Lake Kirby and is approximately 2,300 feet away, would require a bore under Hwy 83/84 and would require easements across private property. The existing line west of this development runs north/south along Hardwick Road and is approximately 4,200 feet away, would require a deep cut through a hill and a creek crossing of Buttonwillow Creek.

We feel that the installation of a sanitary sewer line to this project, if doable, would be a financial hardship to this development. We are requesting that a sanitary sewer extension be waived for this project and on-site disposal facilities be allowed. It is our understanding that this action will require City Council approval and request that this item be placed on the first possible agenda.

Please contact me if you should have any questions.

Sincerely,

RECEIVED  
OCT 10 2013  
City of Abilene

Enprotec/Hibbs & Todd, Inc.

David Todd, P.E.  
Executive Vice President

c: Project File 5836

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*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

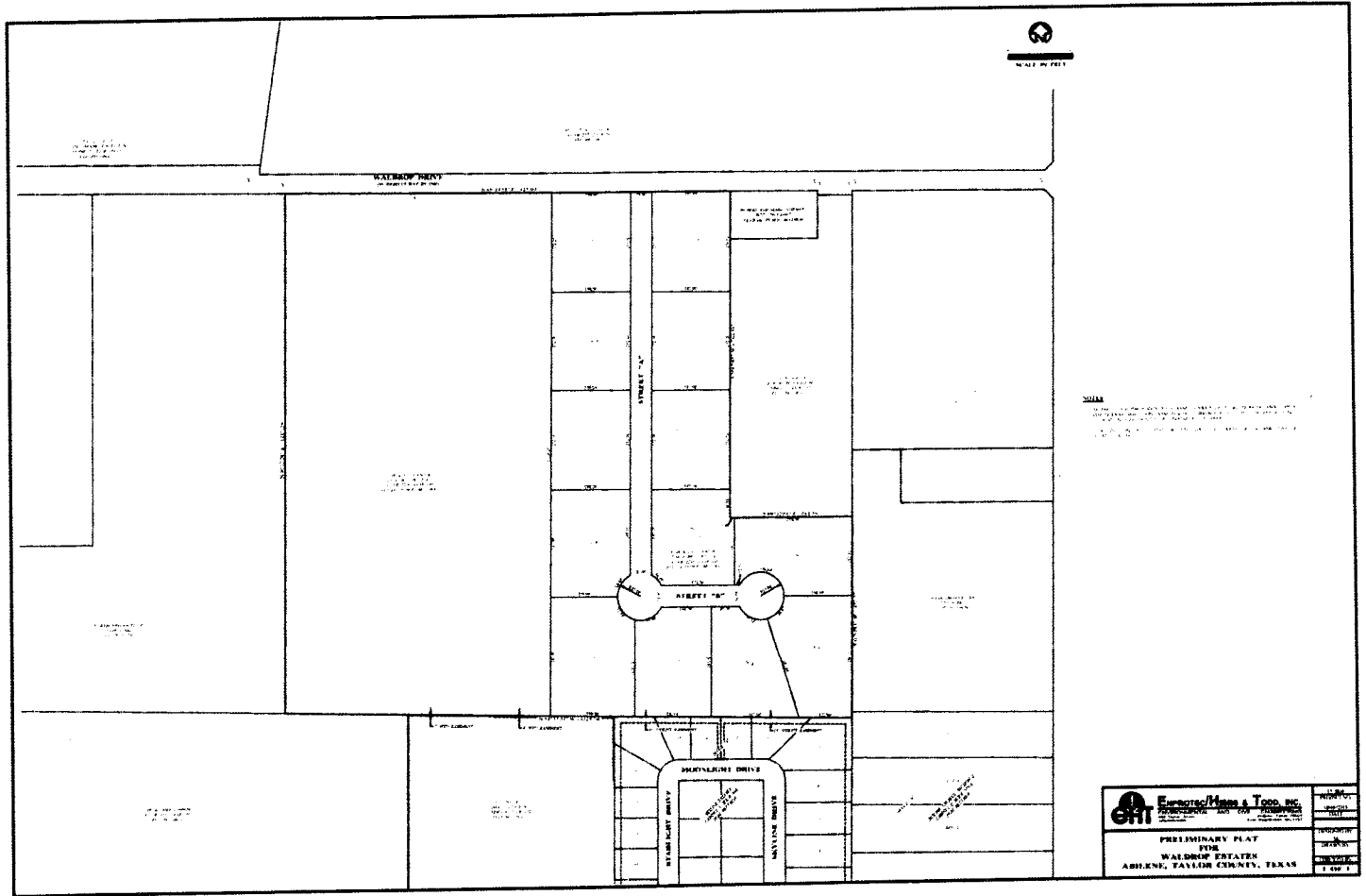
- (b) **Responsibility.** The subdivider shall install and pay for all municipal sewer extensions and required public facilities in accordance with all standards required by this Chapter of the LDC and Chapter 32, except to the extent that Section 32-114 of Chapter 32 provides for refunding the cost of certain sewer mains larger than eight inches (8") in diameter. All such lines and public facilities shall be installed within a public right-of-way or easement designated for utility access. Upon certification that municipal sewer extensions and required public facilities have been completed in accordance with applicable standards and specifications, such extensions and public facilities shall be dedicated to the City of Abilene.
- (c) **On-Site Sewage Disposal Systems.** Where the City of Abilene's sanitary sewer system is not required or planned to be extended, in accordance with applicable standards of this chapter, plans shall be prepared for installation of on-site sewage disposal systems designed to serve each lot in the subdivision. Where non-municipal sewers are planned to collect wastes for transport to private, self-contained sewage treatment facilities within the subdivision, both the sewage collection system as well as necessary treatment facilities shall be installed by and at the expense of the subdivider, including adequate provisions for long-term maintenance.

#### **Section 3.2.5.2 The City System**

- (a) **Extension.** Extension of the City of Abilene's sanitary sewer system shall be required for any subdivision within City limits. Extension of municipal sewers shall also be required, outside City limits, for any subdivision comprising a lot or lots less than one-half (1/2) acre in size if served by a public water supply or a lot or lots less than one (1) acre on other properties. In no way is the City of Abilene obligated, however, to permit extension of municipal sewers outside City limits. The required extension of municipal sewers may be waived wherever the City Council, acting on the advice of the Planning Director and the Director of Water Utilities, or designee, determines that such extension would require unreasonable expenditures and that on-site sewage disposal facilities will function properly.

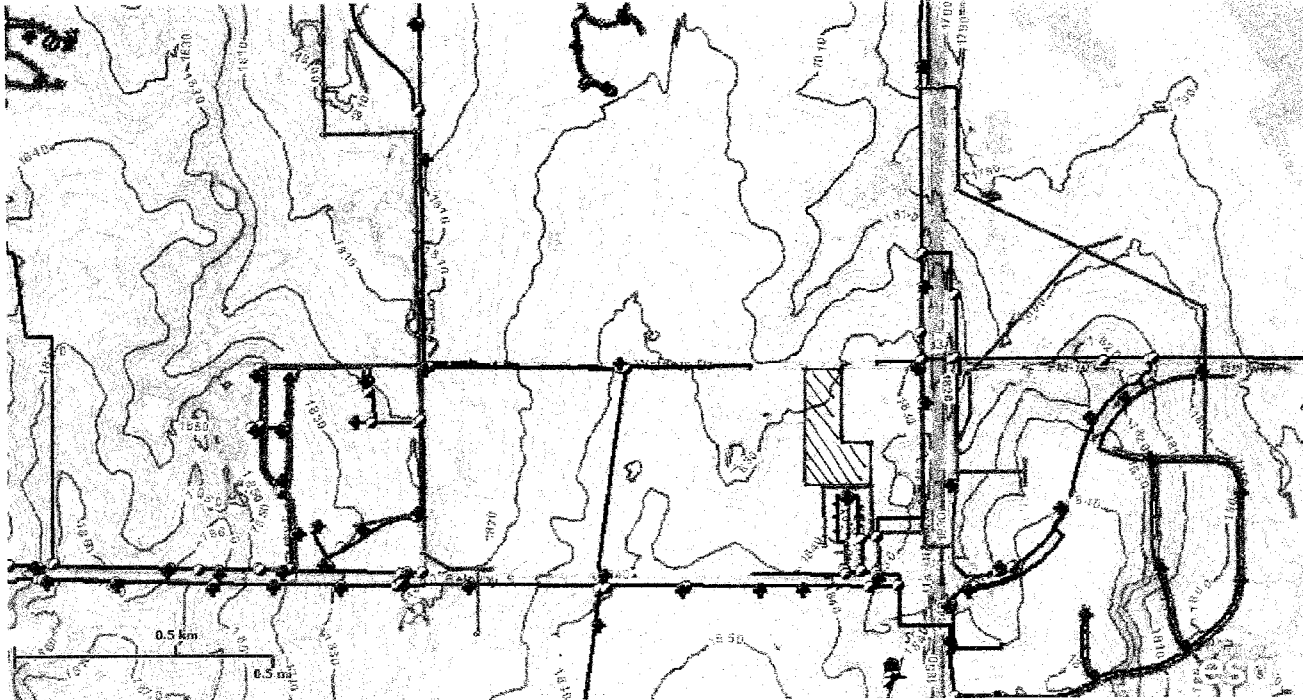
#### **Section 3.2.5.3 Centralized Wastewater System; Connection to Existing System**

- (a) **Design Requirements.** Where wastewater is to be provided through a centralized system, the developer shall install adequate facilities, subject to the Design, Details, and Construction Standards and state design criteria for wastewater systems.
- (b) **Existing System.** Where insufficient capacity exists downstream of a proposed connection, the replacement and upsizing of the existing main is required of the developer. The installation of a parallel main is prohibited, unless approved by the Director of Water Utilities, or designee.



# Map from a Flex Viewer application

Powered by ArcGIS



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October 15, 2013

City of Abilene  
 P O Box 60  
 Abilene, Texas 79604  
 Attn: Mr. Rodney Taylor

**Re: Waldrop Estates**

Dear Mr. Taylor:

As requested, I have estimated the cost to extend sanitary sewer to the proposed project. From the information I obtained from the City of Abilene Water Department, the shortest route is to go east along Waldrop Road, cross Hwy 83/84, then east along Spur FM 707 and connect to the existing 6" sanitary sewer line at a manhole just south of FM 707. The off-site route would consist of approximately 1,250 lineal feet of 6" line, 4 manholes, 350 lineal feet of encased bore. The estimated construction cost is as follows:

1,250 LF 6" sewer line (6' to 12')	@ \$ 50.00	=	\$ 62,500.00
4 Ea Manholes	@ \$ 3,000.00	=	\$ 12,000.00
350 LF steel encased bore (12')	@ \$ 200.00	=	\$ 70,000.00
1 Ea connection to existing MH	@ \$ 3,000.00	=	<u>\$ 3,000.00</u>
	<b>TOTAL</b>		<b>\$147,500.00</b>

Another option would be to connect to the manhole at the end of the existing 15" Ultra-Rib line on the west side of Hwy 83/84, northeast of the development. The route should follow the swale that travels diagonally up to Waldrop Road. The estimated construction cost for this option is:

3,500 LF 6" sewer line (6' to 8')	@ \$ 35.00	=	\$122,500.00
10 Ea Manholes	@ \$ 3,000.00	=	\$ 30,000.00
1 Ea connection to existing MH	@ \$ 3,000.00	=	\$ 3,000.00
2.4 acres easement	@ \$10,000.00	=	<u>\$ 24,000.00</u>
	<b>TOTAL</b>		<b>\$179,500.00</b>

When water and sewer is already available to existing single family residential sites, the construction costs for development is approximately \$10,000 to \$12,000 per lot. Assuming the same scenario, the off-site sewers estimates for this development would double the cost for these developers.

*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  
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 2901 Glen Rose Hwy, Suite 107  
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 One Preston Park  
 2301 Ohio Drive, Suite 105  
 Plano, Texas 75093  
 972.599.3480 | 972.599.3513 fax

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Mr. Rodney Taylor  
October 15, 2013  
Page 2

It is my opinion that by doubling the construction costs for this development would put these developers at an unfair economic disadvantage when compared to other developments of this nature.

They respectfully request that sanitary sewer requirements be waived for this development and on-site disposal be allowed.

Please contact me if you should have any questions.

Sincerely,

Enprotec/Hibbs & Todd, Inc.

David Todd, P.E.  
Executive Vice President

c: Project File 5836

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## Taylor, Rodney

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**From:** David Todd [david.todd@e-ht.com]  
**Sent:** Tuesday, October 22, 2013 2:39 PM  
**To:** Taylor, Rodney  
**Subject:** Waldrop Estates

Rod

I have estimated the inside the development public sewer costs versus on-site septic tanks. Estimated costs for inside the development sewer is as follows:

1250 lf 6" sanitary sewer @ \$35/lf	\$43,750
4 ea. manholes @ \$3000/ea	\$12,000
14 ea. 4" services @ \$450/ea	\$ 6,300
1 ea. Cleanout @ \$500	\$ 500
Total	\$62,550

This equates to \$4468 per lot.

I contacted Johnny Casey who is a registered septic tank installer and he said a septic tank system for a 3500 sf house in average Taylor County soil would be approx. \$5500.

Hope this helps.

David Todd, PE, RPLS  
Executive Vice President  
eHT | Enprotec / Hibbs & Todd, Inc.  
Abilene (325) 698-5560 | Mobile (325) 668-2364 | Email [david.todd@e-ht.com](mailto:david.todd@e-ht.com)

Abilene | Lubbock | Granbury | Plano  
[www.e-ht.com](http://www.e-ht.com) | PE Firm Registration No. 1151 | PG Firm Registration No. 50103





November 22, 2013

Delivery: US Mail  
Email to: david.todd@e-ht.com

Enprotec/Hibbs & Todd, Inc.  
Attn: David Todd, P.E.  
402 Cedar Street  
Abilene, TX 79601

Re: Waldrop Estates

Dear Mr. Todd,

The City of Abilene received your letter dated October 8, 2013 in which you requested that the developer not be required to extend sanitary sewer to the proposed development, Waldrop Estates. You indicated that the developer wishes to install on-site sewage disposal facilities. The developer feels that the installation of a sanitary sewer line to this project would be a financial hardship to this development. There are extenuating factors such as distance and construction obstacles such as US Highway 83/84 to the east and a slight hill to the west requiring increased construction costs for a sewer main extension.

In a follow up letter dated October 15, 2013 you provided construction cost estimates to extend sanitary sewer to the proposed project along two proposed routes. You indicated that the offsite sewer extensions would cost approximately \$147,500 to \$179,500 depending on the selected route, which could add approximately \$10,536 to \$12,822 of additional cost to each lot. You also indicated this would be a financial hardship to this development.

It is the responsibility of City staff, in evaluating the developer's request, to reference the City's applicable planning guidance documents and the local regulations as approved by the Abilene City Council. The City's Comprehensive Plan speaks to this issue. One of the "guiding principles" of the plan is to "maximize the efficient use of limited resources, such as water, roads, and public services, by targeting new development in areas with existing services". While the City's goal is not to discourage growth anywhere in the City, it is also not to allow short term expediency to inhibit the future growth of the City by allowing development prematurely in areas that aren't adequately served by water, sewer, roads, police, fire, etc. to the possible detriment of future growth and development in the area.

For the purpose of establishing the City's position on this matter, the following includes paraphrased excerpts from the City of Abilene Code of Ordinance (Ordinance) and the City of Abilene Land Development Code (LDC).

LDC section 3.2.1.1 provides that it is the responsibility of the Developer (the subdivider) to pay all costs for facilities required by the LDC, except to the extent that this section specifically provides for full or partial payment by the City of Abilene. Also provided is the developer shall be responsible for the extensions of public facilities both onsite and offsite necessary to connect to existing public facilities, and for the facilities whether on-site or off-site, and for making provisions for future expansion of the public facilities as needed to serve future developments, subject to the City's oversize participation policies, if applicable.

LDC Section 3.2.5.2(a) provides that the extension of the City of Abilene's sanitary sewer system shall be required for any subdivision within City limits.

The LDC Section 3.2.5.5. allows for OSSF for developments provided a waiver from sewer requirements has been duly approved by City Council.

If the Developer has an interest in the City participating in the construction of the sanitary sewer extension, as provided in the Ordinance, Chapter 32 Utilities, Section 32-114(3) and the LDC Section 3.2.5.1(b) then the City is willing to have a Professional Engineer conduct an evaluation to study the greater area around the Development and determine a plan for the most feasible means to serve the greater area with public sanitary sewer. The evaluation would include recommendations on alignment and pipe sizing. Those recommendations would help the City in determining if participation with the developer is feasible and to what extent.

In summary, the developer of the Waldrop Estates development has requested that the Abilene City Council grant the developer a waiver from the requirement to extend the public sanitary sewerage to the development and to authorize the developer to install individual On-site Sewage Systems. As provided in the City's Ordinances and LDC, it is necessary that gravity sanitary sewerage facilities be extended to serve new residential developments constructed within the Abilene City Limits, unless there are unreasonable expenditures. **The City does not find such costs as unreasonable expenditures.** Section 3.2.5.2 of the City's Land Development Code (LDC) does authorize the City Council, acting on the advice of the Planning Director and Director of Water Utilities, to waive the requirement for a new subdivision to connect to the City's sanitary sewer service. The City Council only reviews such a request when both the Planning Director and Director of Water Utilities agree that the request meets these standards. **However, it is the opinion of the Planning Director and Director of Water Utilities that the Developer be required to extend the public sanitary sewer to serve the Development, and that the Developer not be allowed to install individual On-site Sewage Systems for the Proposed Waldrop Estates Residential Subdivision.**

Please contact me at 325-676-6452 or email [rodney.taylor@abilenetx.com](mailto:rodney.taylor@abilenetx.com) should you like to discuss this matter further.

Sincerely,



Rodney Taylor

Assistant Director of Water Utilities

Cc: Tommy O'Brien, P.E., Director of Water Utilities  
Jon James, Director of Planning  
Theresa James, Assistant City Attorney

**CITY OF ABILENE CODE OF ORDINANCES**  
**LAND DEVELOPMENT CODE**  
**Chapter 3: Subdivision Regulations**  
**Article 2 - Subdivision Standards**  
**Division 5 – Wastewater**

**Section 3.2.5.2 The City System**

(a) Extension. Extension of the City of Abilene’s sanitary sewer system shall be required for any subdivision within City limits. Extension of municipal sewers shall also be required, outside City limits, for any subdivision comprising a lot or lots less than one-half (1/2) acre in size if served by a public water supply or a lot or lots less than one (1) acre on other properties. In no way is the City of Abilene obligated, however, to permit extension of municipal sewers outside City limits. The required extension of municipal sewers may be waived wherever the City Council, acting on the advice of the Planning Director and the Director of Water Utilities, or designee, determines that such extension would require unreasonable expenditures and that on-site sewage disposal facilities will function properly. (Ord. No. 8-2010, pt. 1 (Exh. A), 4-22-10; Ord. No. 12-2010, pt. A (Exh. A), 6-10-10)