

FPV-17-001



City of San Antonio
Development Services Department
Land Entitlements Section

VARIANCE/ TIME EXTENSION APPLICATION

RECEIVED
16 OCT 11 PM 3:56

Date Submitted: 10/10/16 Project ID Number: AP# 2204148

Project Name: Landing at French Creek

Owner/Agent: Meritage Homes Phone: (210) 298-4294 Fax: _____

Address: 3010 N. Loop 1604 West, Suite 214 San Antonio, TX Zip Code: 78231

Consultant: KFW Engineers Phone: (210) 979-8444 Fax: _____

Address: 3421 Paesanos Pkwy, Suite 200 San Antonio, TX Zip Code: 78231

Email Address: bwellmann@kfwengineers.com

BACKGROUND:

- Time Extension Sidewalk Floodplain Permit Other: Sitework Permit
- City Council District 8 Ferguson Map Grid _____ Zoning District _____
- San Antonio City Limits - Yes No
- Edwards Aquifer Recharge Zone? Yes No
- Previous/existing landfill? Yes No
- Parkland, greenbelts, or open space? Flood plain? Yes No

VARIANCE APPROVAL CRITERIA:

As per the UDC, the variance request letter must address the following criteria prior to submission.

- If the applicant complies strictly with the provisions of these regulations, he/she can make no reasonable use of his/her property; and
- The hardship relates to the applicant's land, rather than personal circumstance; and
- The hardship is unique, or nearly so, rather than one shared by many surrounding properties; and
- The hardship is not the result of the applicant's own actions; and
- The granting of the variance will not be injurious to other property and will not prevent the orderly subdivision of other property in the area in accordance with these regulations.

FEES (please refer to the current fee schedule)

Variance Request \$ 350 OR Time Extension \$ _____

Print Name: Burt Wellmann Signature: [Signature]

Date: _____ Owner Agent (Checking this requires a notarized Letter of Agent.)

*NOTE: Please attach this application with your submittal to the reviewing agencies. In addition, if the letter does not address the above mention criteria your variance may be subject to disapproval. If the variance is being made in regards to a Certificate of Determination request, the Director of Development Services shall make a determination within 20 days after the date it receives the request before placing it on the Planning Commission agenda under subsection 35-430(d) of the UDC and shall issue the Certificate, if appropriate, within 10 days after the date of Planning Commission approval. Additional fees may apply, please see fee schedule.



October 10, 2016

Variance Request Review
C/o Jacob Powell, P.E.
Development Services Department
City of San Antonio
1901 S. Alamo
San Antonio, Texas 78204

Re: Landing at French Creek – Sitework Permit AP# 2204148
Variance Request – UDC Section 35-F133(c)(2)

- Administrative Exception
- Environmental Variance
- Floodplain Variance – CLOMR requirement

Dear Mr. Powell,

The following variance request is submitted on behalf of Meritage Homes (the "Owner"), owner of a tract of undeveloped land located southeast of Prue Rd. and Old Prue Rd. The Owner is currently proposing to fill and perform grading activities within the floodplain without approval of a CLOMR. Other than not providing a CLOMR, the proposed sitework permit will comply with the current Unified Development Code (UDC).

During feasibility of the subject property it was discovered that reclamation within the floodplain (French Creek) could be attainable due to allowances within section 35-F124 of the UDC. It was also a known circumstance that Bexar County was performing two flood control capital improvement projects which affected the subject property and the French Creek floodplain. These two flood control projects consisted of bridge and channel improvements to Prue Rd and N. Verde Rd. After discussing reclamation and floodplain revisions within the subject property with Bexar County and City of San Antonio, it was determined the most efficient method to document the overall floodplain revisions was to include said revisions within LOMR documents being prepared in conjunction with the county's flood control projects. In addition, KFW has prepared a flood study on the Owner's behalf, including HEC-RAS and XPSWMM 2D model of the proposed grading improvements to the subject property which has been reviewed by the City of San Antonio. Per UDC Section 35-F133(c)(3), a CLOMR is not required for capital improvement projects managed by a public agency. Since Bexar County and City of San Antonio have agreed to include the subject property's floodplain revisions with the county's LOMR documents, the owner is requesting a variance to UDC Section 35-F133(c)(2).

In support of the above Variance Request allowing an exception to the CLOMR requirement, the owner offers the following:

- (1) The hardship requiring this Variance Request is unique to the property.

Due to the county's flood control projects affecting the subject property, it was determined that floodplain revisions would be included with the LOMR being prepared by the county's consultant thus initiating the Owner's request to waive the CLOMR requirement. This approach will allow potential inconsistencies by multiple flood studies to be avoided and thus produce a more accurate LOMR for French Creek within the limits of study.

- (2) This AEVR corresponds to the spirit of the UDC.
UDC Section 35-F133(c)(3) states:

"Excluding capital improvement projects managed by a public agency, no construction activity that will result in a change in the alignment, width, or elevation of a FEMA designated floodplain is allowed prior to a CLOMR being approved by FEMA."

Due to the county and city's agreement to include the subject property's floodplain revisions within a capital improvement project flood study managed by a public agency (Bexar County), it is our opinion that it is appropriate to waive the CLOMR requirement for the subject property. Additionally, a flood study has been prepared by the Owner's consultant (KFW Engineers) and submitted to the City of San Antonio for review which includes hydraulic analysis on French Creek due to improvements associated to Sitework Permit AP# 2204148.

- (3) The Owner has sought to minimize any potentially adverse impacts on the public health, safety, and welfare.

By preparing a separate flood study which has been reviewed by City of San Antonio, the Owner has ensured impacts to adjacent property and public safety and welfare have been minimized to be in compliance with allowable development within the floodplain (UDC Section 35-F124).

Additionally, as described more specifically below, this variance request meets the approval criteria stipulated in UDC Sec. 35-483 (e):

- If the applicants comply strictly with UDC Section 35-F133(c)(2) they cannot make reasonable use of their property. A CLOMR for the subject property would require a separate FEMA submittal which would allow "conditional" improvements to the property. A portion of the improvements on the property are in conjunction with the county's capital improvement projects, thus requiring incorporation into the CLOMR. Since the county's improvements are not conditional but permanent, disapproval of the CLOMR by FEMA would render the property reasonably unusable.
- The hardship in question relates to the owners' land, rather than personal circumstance. The variance to the CLOMR requirement is due to floodplain improvements within the Owner's property.
- The hardship is unique, or nearly so, rather than one shared by many surrounding properties. The hardship is unique to the subject property in that a CLOMR would tie a permanent improvement (county project) to a conditional permit.

- The hardship is not the result of the applicant's own actions. The county's flood control project is a Capital Improvement for benefit of the public which was initiated by the public and not by direct actions of the Owner.

In conclusion, granting this Variance Request and allowing an exception to the CLOMR requirement, will allow development within the spirit of the UDC and pose no threat to health, safety, or public welfare. Thank you for considering the foregoing request.

Sincerely,



Burt Wellmann, P.E.
Agent for the owner

For Office Use Only:	VR #:	_____	Date Received:	_____
<u>DSD - Director Official Action:</u>				
<input type="checkbox"/> APPROVED	<input type="checkbox"/> APPROVED W/ COMMENTS	<input type="checkbox"/> DENIED		
Signature:	_____	Date:	_____	
Printed Name:	_____	Title:	_____	
Comments:	_____ _____ _____			

DULY AUTHORIZED LETTER OF AGENT

October 10, 2016

City of San Antonio
Development Services
1901 South Alamo
San Antonio, TX 78204

Attn: Land Entitlements

This letter hereby authorizes KFW Engineers/Burt Wellmann, P.E. to act as the signing agent for Meritage Homes/Brian Otto in regards to the Landing at French Creek Sitework Permit AP# 2204148 Floodplain Variance and he (she) is further authorized to execute any and all documents necessary to consummate the Variance Request. Executed this, the 11th day of October

_____, 2016A.D.

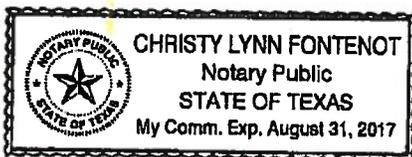
Brian Otto
Owner's Signature
Brian Otto
Print Name

State of Texas §
§
County of Bexar §

Before me, the undersigned authority, a notary public for the State of Texas, on this day personally appeared Brian Otto, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledge to me that he executed the same for the purpose and consideration therein expressed.

Given under my hand and seal of office, this the 11th day of October, 2016.

(SEAL)



Christy Lynn Fontenot
Notary Public in and for the State of Texas
My Commission Expires: August 31, 2017

REMIT TO:
CITY OF SAN ANTONIO - DEV SVCS-1901 S. ALAMO
1901 S ALAMO
SAN ANTONIO TX 78204

I N V O I C E
3857284

AMT ENCLOSED _____

50-05-5574
KFW MANAGEMENT LLC
14603 HUEBNER RD BLDG 40
SAN ANTONIO, TX 78230

AMOUNT DUE 350.00
INVOICE DATE 10/12/2016
DUE DATE 10/12/2016

PHONE: (210) 979-8444

FLOOD PLAIN VARIANCE
FPV-17-001 LANDING AT FRENCH CREEK
FACILITY LOCATION: 1901 ALAMO ST S

INVOICE DATE INVOICE ACCOUNT DUE DATE OFFICE HOURS
10/12/2016 3857284 50-05-5574 10/12/2016 -

LINE INDEX REF DESCRIPTION AMOUNT
1 012880-001 VARIANCE/ADMIN EXCEPTIONFEE 350.00

PAID
OCT 12 2016
DSD - #6

AGREEMENT DATES SERVICE DATES ORDINANCE CONTRACT DOCUMENT
ST: 10/12/2016 CK 10496 FPV-17-001
END 10/12/2016

INVOICE INVOICE AMT PAYMENTS RECV TOTAL INV AMT DUE
INFORMATION 350.00 0.00 350.00

CUSTOMER OTHER AMTS DUE TOTAL CUST AMT DUE
INFORMATION

C I T Y O F S A N A N T O N I O
DEV SVCS-1901 S. ALAMO 1901 S ALAMO SAN ANTONIO TX 78204

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