

TPV-20-036



CITY OF SAN ANTONIO
DEVELOPMENT SERVICES DEPARTMENT
1901 S. Alamo, San Antonio, TX 78204

**ADMINISTRATIVE EXCEPTION/VARIANCE
REQUEST APPLICATION**

Project Name:	LOOP 410 - LOT 8 COMMERCIAL		
A/P # /PPR # /Plat #	TREE AP#2462314 / PLAT#950256 (REPLAT#2018000601)		
Date:	APRIL 15, 2020		
Code Issue:	CLOMR/LOMR APPROVED - 8" (3) HACKBERRIES TO BE REMOVED		
Code Sections:	FROM FEMA EP. CODE: 35-523 (f)(2)(a) & (h)		

Submitted By:	<input type="checkbox"/> Owner	<input checked="" type="checkbox"/> Owners Agent * (Requires notarized Letter of Agent)
Owners Name:	ROGELIO GARZA AGUILAR & LIGIA AGUILAR GONZALEZ	
Company:	.	
Address:	22211 W. IH-10, SUITE 1206, SA, TX	Zip Code: 78257
Tel #:	210-593-2702	Fax# N/A E-Mail: tayes@werkplaats.us
Consultant:	DAVID PARKERSON, PE	
Company:	KAVANAUGH CONSULTING, LLC	
Address:	108 RIVER OAKS DRIVE, WIMBERLEY, TEXAS	Zip Code: 78676
Tel #:	512-987-7397	Fax# N/A E-Mail: Kavanaghconsulting@gmail.com
Signature:		

Additional Information – Subdivision Plat Variances & Time Extensions

1. Time Extension Sidewalk Floodplain Permit Completeness Appeal

Other _____

2. City Council District CD 6 Ferguson Map Grid 579F8 Zoning District C-3

3. San Antonio City Limits

Yes

No

4. Edwards Aquifer Recharge Zone?

Yes

No

5. Previous/existing landfill?

Yes

No

6. Parkland Greenbelts or open space? Floodplain?

Yes

No

360 - 08 - 197

KAVANAUGH CONSULTING, LLC

108 River Oaks Drive
Wimberley, Texas 78676
(512) 587-7397
kavanaughconsulting@gmail.com

July 9, 2020

Variance Request Review
City of San Antonio
Development Services Department
Attn: Land Entitlement Subdivision Staff
Environmental Section Review Staff
1901 S. Alamo
San Antonio, TX 78204

Re: **Loop 410 – Lot 8 Commercial**

Plat #2018000601 / Tree AP # 2462314 / Site Plan AP# 2534237

Tree Preservation Requirements

UDC Chapter 35-523 - Tree Preservation

(f) Minimum Tree Preservation Requirements

(2) Tree Survey Methodology

(a) Standards – Table 523(l)(a)

Environmental Sensitive Areas (80% mitigation)

Mitigation Maximum (80% mitigation)

(h) 100-Year Floodplain and Environmentally Sensitive Areas

- Administrative Exception
- Environmental Variance
- Subdivision Platting Variance – Time Extension

Dear Development Services:

Please consider this Letter Request for a Variance Request to the requirements for the preservation of 100% of significant trees in a 100-year floodplain on property within the City of San Antonio.

The overall project site is known as Loop 410 – Lot 8 Commercial, Westpark Subdivision and is a remainder portion of a previously platted lot (Lot 8). It is in west San Antonio, Texas (City) on the west side of Loop 410, approximately a mile north of its intersection with Culebra Road. It is inside the City limits along Leon Creek. Surrounding lots are fully developed to the rear property lines adjacent to Leon Creek and this is the last remaining undeveloped lot in the area.

This project will be a commercial retail and office development with multiple buildings, parking, and landscaping. This project will stay consistent to the adjacent developments

for development envelope. As such, it will require a short retaining wall and a small amount of embankment towards the rear lot line. This project includes a CLOMR/LOMR (City/SARA/FEMA Approved) which will remove a small amount of backwater 100-year FEMA floodplain from the Lot in FEMA records.

This Environmental Variance Request from Planning Commission that we are requesting is to Section 35-523(f)(2)(a) and 35-523 (h) of the UDC of the City, which addresses the same requirement. The specific sections address Tree Preservation requirements. More specifically, it addresses the requirement for preservation of 80% of Significant Trees located in a FEMA 100-year floodplain as per the following:

“Significant trees shall be preserved at eighty (80) percent preservation within both the 100-year floodplains and environmentally sensitive areas. Heritage trees shall be preserved at one hundred (100) percent preservation within both the 100-year floodplains and environmentally sensitive areas. The 100-year floodplain shall be determined by the floodplain administrator. Mitigation shall be prohibited in floodplains and environmentally sensitive areas except when a variance is granted by the planning commission.”

As discussed in our meetings with the City Tree Reviewers, Mark Bird, Melissa Ramirez, and the City Attorney’s Office in March 2020 along with the Owner’s attorneys in Bill Kaufman’s office (Ms. Erin Bley) over the last month, our request is simple. We would like to remove three (3) 12” Hackberries in various stages of health that fall only 10-feet from the existing 100-year flood plain line but within the floodplain itself. These trees are the only trees on the Lot as it was all likely cleared when platted in the 1980’s. As mentioned above, the owner intends to embank a few feet on the rear of the tract so that the majority of the Lot can be removed from the FEMA floodplain that has been revised over the last 30+ years out onto the previously developed and platted lot. The Lot becomes usable for the original intended commercial use as a retail and office park. The Owner’s proposed Landscape Plan prepared by the Landscape Architect for the Project (MP Studios) is to mitigate this 36-inches of significant protected (Hackberry) trees on a one-to-one basis at the time of site development and according to the attached landscape site plan, which shall include only medium to large species trees from Appendix E with no more than 25% of such mitigation trees being the same species. The following supplementary documents are provided herein for your information and consideration:

- 1.) Pictures of the existing hackberry trees.
- 2.) Existing site conditions and hackberry trees with existing FEMA floodplain lines.
- 3.) Proposed site conditions and hackberry trees with proposed grading and wall plans and with revised FEMA floodplain lines per the approved CLOMR/LOMR.

- 3.) Proposed site conditions and hackberry trees with proposed grading and wall plans and with revised FEMA floodplain lines per the approved CLOMR/LOMR.
- 4.) Potential site layout as an example with hackberry tree conflicts shown.

We would like to clarify our justification in requesting this variance as based on the following items:

- 1.) *If the applicant complies strictly with the provisions of these regulations, he/she can make no reasonable use of his/her property;*
 - a. *The land is encumbered in the middle of the site by the now-unremovable trees and on the outer edge of the present floodplain delineation creating a bad scenario from both directions of front and back of lot whereby preservation of these three trees will limit development of this lot to the front half only while it was originally planned, valued, priced, and purchased for the development of the entire lot.*
- 2.) *The hardship relates to the applicant's land, rather than personal circumstances;*
 - a. The land was originally planned, platted, cleared and developed with utilities and Loop 410 highway frontage for a commercially developed lot that was high enough to stay out of the floodplain and was cleared of trees for development. These characteristics of trees and topography relate to the land rather than to the Owner's circumstances and are an issue now due to time since the inception of the development crossed with offsite development and are counter to the original intent of its platting and development.
- 3.) *The hardship is unique, or nearly so, rather than one shared by many surrounding properties;*
 - a. This was the only lot in the plat that remained un-built over the past 30+ years and in that time, upstream development and addition of impervious cover changed the condition of Leon Creek such that a small amount of backwater on this Lot was created in the rear of the lot by the elevation of the 100-year floodplain delineation by FEMA. Also, in that time, a few undesirable trees grew back in a location on the lot that just happened to coincide with that revised higher floodplain. Hackberries are largely regarded as undesirable trees as they are not considered hardy against the elements and infestation. And, it should be noted that the floodplain on the Lot is not a floodway but a backwater condition reaching up into this

lot by a 1-2' of depth which is minimal compared with the characteristics and depth of Leon Creek in general.

4.) The hardship is not the result of the applicant's own actions;

- a. These characteristics of trees and topography relate to the land rather than to the Owner's actions and are an issue due to time since the inception of the development crossed with offsite development and are counter to the original intent of its platting and development. The applicant had no control over these offsite actions.*

5.) 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;

- a. The removal of these trees will not adversely impact surrounding properties as they have all been previously cleared, developed and re-landscaped (albeit poorly landscaped under older requirements of the City). This development will meet more current requirements of the City for tree mitigation and beautification upon its final development with buildings and parking as originally intended.*

6.) Conclusion: Provide a summary statement such as "In my/our professional opinion, the proposed variance remains in harmony with the spirit and intent of the UDC as it will not adversely affect the health, safety, or welfare of the public";

- a. In my professional opinion, the proposed variance remains in harmony with the spirit and intent of the UDC as it will not adversely affect the health, safety, or welfare of the public.*

We have taken all practicable measures to minimize any adverse impacts by planning to replace these weaker trees in a failing state of health with more robust and desirable hardwood and cedar elm type trees to the same amount of caliper inches currently on site. We believe it warrants your approval for the reasons listed above and look forward to a response on this issue.

We appreciate your consideration and time.

Sincerely,

Applicant:



Kavanaugh Consulting, LLC, By
David Parkerson, PE
Texas License # 87016

Owner:



Ligia Aguilar Gonzalez, By
Kavanaugh Consulting, LLC, By
David Parkerson, PE, Agent

Attachment(s)

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







City of San Antonio
Development Services Department
1901 S. Alamo
San Antonio, TX 78204

TREE PERMIT APPLICATION (Protected Trees to be Removed)

MAJOR MINOR _____

Inspector's initials: _____ Date: _____ Pass
Reviewer's initials: _____ Date: _____ Approved
RD Review initials: _____ Date: _____ Approved

(Office Use Only)

Fail Comments: _____
 Denied Comments: _____
 Denied Comments: _____

Applicant Information

Applicant Name: David Parkerson, PE Company Name: Kavanaugh Consulting, LLC
Phone #: 512-587-7397 Fax#: _____ Email: kavanaughconsulting@gmail.com
Address: 108 River Oaks Drive City: Wimberley State: Tx Zip: 78676
Owner's information (if different than applicant)
Name: Rogelio Garza Aguilar & Ligia Augilar Gonzalez Phone: 210-410-7807 Fax: _____
Address: 22211 W. IH-10, Suite 1206 City: San Antonio State: Tx Zip: 78257

Project Information

Project Name: Loop 410 - Lot 8 Commercial Unit: 1 Plat: 18061
Project Address/Location: 6813 NW Loop 410, SA, TX 78238 Outside City Limits: Yes No
Project Type: Residential # lots Non-Residential # 2.834 Acres Public Funds: Yes No
Class of Work: Tree Removal Site Work Platting New Structure Geotech Addition(>2500 ft²)
Parcel Key: (<https://gis.sanantonio.gov/PDS/onestop/index.html>) 483722 (Parcel Key must be included)

Type of Application and Review

Please note: Applicant shall provide habitat compliance form as defined in section 35-B133 of the UDC for properties with 2.0 or more acres.

If a Tree Permit associated with a rights determination review or a tree preservation plan was previously approved, provide A/P# _____ and no selection of 1 or 2 is required below.

Please mark the appropriate box for review (ONLY MARK ONE BOX):

1. Site has Rights Determination (RD aka Vested Rights)/Consent Agreement (CA) Validation:
RD/CA #: _____
(Staff will confirm exemption from the Tree Preservation Ordinance, but a Rights Determination number and aerial photo of project area is required. Applicable R.D. validation review fees apply for residential building tree permit of \$35.00 per lot and \$250.00 for commercial and site work permits. Please note that effective date of rights will determine other applicable fees and may require additional information to be submitted for the final tree review) (requires submittal of site plan for review)

2. Site has Protected, Significant, Heritage or Historic Trees that will be removed (requires additional site plan and tree inventory submitted). Tree Preservation Plan must be Tree Survey Method (35-B123) or Tree Stand Delineation Method with a Heritage Tree Survey (35-B125).

Forms and additional information can be found at:

<http://www.sanantonio.gov/DSD/Constructing/Tree.aspx>

Development Services Department / Revised March 2013

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LIGIA AGUILAR GONZALEZ
22211 W. IH-10
SUITE 1206
SAN ANTONIO, TEXAS 78257
(210) 893-2702

April 1, 2020

Re: Letter of Agent Authorization

Agent: David Parkerson, P.E.
Kavanaugh Consulting, LLC
108 River Oaks Drive
Wimberley, Texas 78676
Kavanaughconsulting@gmail.com
(512) 587-7397

Property: LOOP 410 – LOT 8 COMMERCIAL
6813 NW LOOP 410, San Antonio, Texas

To whom it may concern,

The purpose of this letter is to act as a Letter of Agent Authorization to indicate that David Parkerson, P.E., Kavanaugh Consulting, LLC, located at 108 River Oaks Drive, Wimberley, Texas 78676 is a duly authorized Agent of the Owner (Rogelio Garza Aguilar & Ligia Aguilar Gonzalez) of the Loop 410 – Lot 8 Commercial tract located in west San Antonio, Texas on the western side of the Loop 410 south bound frontage between Wurzbach and Culebra and further described by Bexar County Property ID 574901.

He is authorized to act on our behalf as regards all applications for variances, entitlements, platting, and construction approvals from the City of San Antonio, Bexar County, SAWS, and the TCEQ for the aforementioned project. This authorization is valid until December 31, 2022.

Executed as of the 1st day of April, 2020.

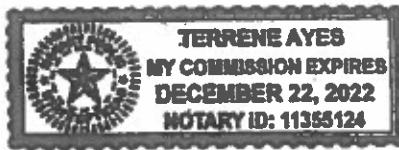
OWNER:

Rogelio Garza Aguilar or Ligia Aguilar Gonzalez

Date: 04/01/20

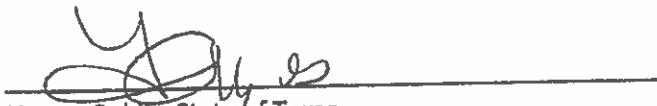
STATE OF TEXAS §

COUNTY OF BEXAR §



BEFORE ME, the undersigned authority, a notary public for the State of Texas, on this day personally appeared Luzia Aguilar, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and considerations therein expressed.

Given under my hand and seal of office on the 1st day of April, 2020.



Notary Public, State of Texas

Printed Name: Terrene Ayes

My Commission Expires: 12/22/22

