



CITY OF SAN ANTONIO

DEVELOPMENT SERVICES DEPARTMENT

VARIANCE REQUEST ANALYSIS

Project:	Creeside Court (P.U.D.)
Address:	.25 Miles Northeast of Intersection of Callaghan and Vance Jackson
A/P #/PPR #/Plat#:	AP# 2233031
VR Submittal Date:	August 10, 2017
VR Submitted by:	Mr. Rick Gray, P.E. of KFW Engineers on behalf of Eyal Avnon, Rialto Homes LP.
Issue:	Below 80% significant tree and 100% heritage tree preservation within Environmentally Sensitive Area (2015 Ordinance)
Code Sections:	Unified Development Code (UDC), Section 35-523 (h)
By:	Herminio Griego, Assistant City Arborist

The Development Services Department (DSD) has reviewed the information presented in Mr. Rick Gray's letter dated August 10, 2017.

The Unified Development Code (UDC) – Article V, Section 35-523 (h), 100-Year Floodplain(s) and Environmentally Sensitive Areas states that, "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 floodplain and environmentally sensitive areas. Mitigation shall be prohibited in floodplains and environmentally sensitive area except when a variance is granted by the Planning Commission."

The applicant is requesting a Variance Request to mitigate for removal of significant trees in excess of the 80% significant tree requirement of protected trees within the environmentally sensitive area in place under the 2015 Tree Preservation Ordinance for construction of Creekside Court P.U.D. DSD staff does agree with the applicant's request to mitigate for significant below 80% preservation for the following reasons:

1. *Existing site conditions* - Due to existing site conditions, design and layout constraints, the project is unable to preserve the minimum 80% of significant trees within the Environmentally Sensitive Area (ESA). The ESA located onsite is a 30' riparian buffer parallel to the current floodplain limits. In the 1980's the owner of the property brought in a significant amount of fill and constructed the existing retaining wall. The fill material used came from a local construction project site which contained large material (rocks) and construction debris. Recent testing indicates the fill material used is inadequate for the proposed development. The retaining wall constructed at the time was not an engineered wall and is currently in an unsafe condition in jeopardy of falling over in certain section. There are several existing significant trees within the environmentally sensitive area where proposed grading will occur. These trees are required to be removed to properly exercise the grading plan and reconstruct the deteriorating retaining wall.


2. *Tree mitigation and canopy diversity* - The project will meet the required Environmentally Sensitive Area mitigation requirement of 63.3 inches by planting 42- 2" caliper native small, medium and large shade trees for a total of 84 inches. These 42 trees are in addition to the required 2 trees per lot. Twenty -three trees will be planted back within the environmentally sensitive area to return the ESA area to pre-development conditions, help shade and protect the adjacent floodplain from the impact of the adjacent land use, and maintain a stable stream bank. The remaining nineteen trees will be installed throughout the residential development. The proposed planting plan provides added species diversity to include small, medium and large native tree species per Appendix E "San Antonio Recommended Plant List." Recommended trees proposed to be planted for mitigation include: Texas Mountain Laurel, Live Oak, Cedar Elm, Shumard Red Oak, Mexican Sycamore and Monterrey Oak.

DSD staff supports the applicant's request to fall below 80% of the tree preservation requirements in the Environmentally Sensitive Area (ESA) based on the conditions of the site, design constraints, and exceeding mitigation and canopy requirements. The proposed Variance Request meets the intent and spirit of the Tree Ordinance therefore, staff recommends approval.

RECOMMENDATION: Approval


Herminio Griego
Assistant City Arborist
DSD – Land Development – Tree Preservation

8/16/17
Date


Pablo G. Martinez, P.E.
Development Services Engineer
DSD – Land Development - Engineering

8/17/17
Date

I have reviewed the Variance Request Analysis and concur with the recommendation.


Melissa Ramirez
Assistant Director
DSD – Land Development

8/18/17
Date

August 10, 2017

Variance Request Review
c/o Development Services Staff
Development Services Department
City of San Antonio
1901 S. Alamo
San Antonio, Texas 78204

Re: Creekside Court (P.U.D.)
UDC Sec. 35-523 (h), 100-Year Floodplain(s) and Environmentally Sensitive Areas

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

Dear COSA DSD;

The following variance request (VR) is submitted on behalf of Eyal Avnon, Rialto Homes, LP ("COO/Partner"), owner of an existing tract of partially developed land located 0.25 miles north of the intersection of Callaghan Rd and Vance Jackson Rd in San Antonio, Texas (the "Property"). The land requiring the VR is part of the 10.23 acre site more particularly described in Vol. 17855, Pgs. 2266-2273 of the Bexar County Real Property Records and Subdivision Plat # 160494 (Creekside Court P.U.D.). The purpose of this letter is to request a variance to Unified Development Code 35-523 (h) which states "Significant trees shall be preserved at eighty (80) percent preservation ... within environmentally sensitive areas".

In the past, as I understand from a neighbor, this property was developed as a private membership recreational facility in the 1970's with a pool and tennis courts all built at a much lower elevation. It was later acquired by an individual who brought in a significant amount of fill and constructed the existing retaining wall, clubhouse and home in the late 1980's. The fill material apparently came from a local construction project site which contained large material (rocks) and construction debris. The material was trucked in, dumped and essentially leveled out without much, if any, compaction. Recent testing indicates construction debris found in 6 test bores at a depth of 5'-6' deep. This material must be removed and replaced in order to achieve desirable densities for development and the safety of the general public. The retaining wall constructed at the time was not an engineered wall and is currently in an unsafe condition in jeopardy of falling over in certain sections. When the fill was initially placed on site, the land owner filled in around numerous large trees, several of which currently have been determined to be diseased or in decline. Other trees have survived the filling activity but will likely not survive material removal and replacement.

On May 5th, 2016, the City of San Antonio Planning & Zoning Commission approved the rezoning case for this parcel from MF-33 to PUD R-5, which allowed the construction of up to 18 single family residential homes. This zoning case was supported by the neighboring residents and generally conforms to the current neighboring development. Should this have been left MF-33 zoning, the tree planting requirements would have been much less restrictive.

A grading plan has been approved for the Creekside Court Subdivision, allowing for the removal of existing non-compacted material and the removal of the existing, deteriorating retaining wall. There are several existing significant trees within the environmentally sensitive area (30' riparian buffer) where this grading will occur on the Property. These trees are required to be removed to properly exercise the grading plan and reconstruct the deteriorating retaining wall. This request for variance consideration is being submitted because preservation of significant trees within the environmentally sensitive area falls below the eighty (80) percent requirement. To properly mitigate for this removal of trees and thus stay in compliance with the Unified Development Code 35-523 (h) and Tree Preservation Ordinance, the developer is proposing to provide mitigation of a total of forty-two (42) two (2") inch caliper trees to be planted within the environmentally sensitive area and adjacent upland area (reference attached Planting Exhibit and Tree Preservation Plan A/P# 2233031). These proposed plantings are intended to return the environmentally sensitive area to predevelopment conditions, help shade and protect the adjacent floodplain from the impact of the adjacent land use, and maintain a stable stream bank.

These plantings and landscape irrigation will be deferred until a building permit has been issued for the construction of individual lots on which they are proposed, and the trees will be located in the rear or front yard.

The following table represents UDC requirements and the applicable mitigation:

Tree Preservation Table	
Total Tree Preservation Within 100 Year Floodplain	99%
Total Tree Preservation Located Within Riparian Buffer	40%
Required Mitigation Inches for 80% Preservation within ESA	63.3 Inches
Proposed 2" Plantings (32 large species Trees) within Riparian Buffer and Adjacent Upland	64 Inches
Proposed 2" plantings (10 small/medium species of diverse species)	20 inches

The following items are addressed as required by the UDC for Variances, UDC Section 35-483(e):

- (1) The hardship requiring this VR is unique to the Property. The reason the owner is unable to preserve a minimum of 80% of the existing significant trees in-place is due to the required grading within the Environmentally Sensitive area to remove the non-compacted material and replace a deteriorating retaining wall.
- (2) This VR corresponds to the spirit of the UDC. The stated purpose of UDC Sec. 35-523 is to allow "...the reasonable improvement of land within the City and City's ETJ... while striving to maintain, to the greatest extent possible, existing trees within the City and to add to the tree population within the City and the ETJ to promote a high tree canopy goal...protect the health, safety, and welfare of the public..." To stay within the spirit of the Unified Development Code and respect for the Tree Preservation Ordinance the developer is proposing 64 inches of mitigation (32 – 2 inch caliper Medium to Large Species trees) to be located within the Environmentally Sensitive area and adjacent upland area.
- (3) The Owner has sought to minimize any potentially adverse impacts on the public health, safety, and welfare. The purposed of the proposed plantings is intended to return the environmentally sensitive area to predevelopment conditions, as well as help shade and protect he adjacent floodplain from the impact of the adjacent land use, and maintain a stable stream bank.

- If the applicants comply strictly with UDC Sec. 35-3 (h), they cannot make reasonable use of their property. In order for the Property to be developed, the existing material on site must be excavated and compacted to adhere to 79G compaction standards and the existing, deteriorating retaining wall within the riparian buffer must be replaced. In order to perform this work, some of the existing trees in the Environmentally Sensitive area must be removed.
- The hardship in question relates to the owners' land, rather than personal circumstance. This VR is required because of where existing significant trees are located on the property such that they cannot be preserved.
- The granting of the exception will not be injurious to other property and not prevent the orderly subdivision of other property in the area in accordance with these regulations. This exception relates solely to the Property and does not have an adverse effect on the orderly subdivision of other property in the surrounding area.
- The hardship is not the result of the applicant's own actions. The existing trees were present in their current sizes and distribution on the property prior to the current owner acquiring the land. The non-compacted fill located on site was present at the time of land purchase and not a result of the current owner's actions. The existing retaining wall is in a deteriorated and hazardous state due to its age and method of construction.

In conclusion, granting this VR and permitting Eyal Avnon, COO of Rialto Homes, LP to remove some of the existing significant trees on the property will allow development within the spirit of the City of San Antonio Unified Development Code by encouraging the health, safety, and welfare of the public by creating an urban environment that is aesthetically pleasing and that promotes economic development through an enhanced quality of life. Thank you for your time and consideration on this foregoing request.

Sincerely,



Rick Gray, P.E., CFM
Senior Project Manager
Agent for the Owner

For Office Use Only:		AEVR #:	_____	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:	_____ _____				