

TPV-19-022

PPR-9366



CITY OF SAN ANTONIO

DEVELOPMENT SERVICES DEPARTMENT

1901 S. Alamo, San Antonio, TX 78204

ADMINISTRATIVE EXCEPTION/VARIANCE REQUEST APPLICATION

Project Name:	W-1 Leon Creek: Hwy 151 to Hwy 90
A/P # /PPR # /Plat #	AP#2473395
Date:	April 9, 2019
Code Issue:	Tree Preservation (2010 Ordinance)
Code Sections:	35-523

Submitted By:	<input checked="" type="checkbox"/> Owner	<input type="checkbox"/> Owners Agent * (Requires notarized Letter of Agent)
Owners Name: Juan Gomez		
Company: San Antonio Water Systems		
Address: 2800 U.S. Hwy 281 North		Zip Code: 78212
Tel #: (210) 233-2300	Fax#	E-Mail: juan.gomez@saws.org
Consultant: Joseph Ortega, P.E.		
Company: Pape-Dawson Engineers		Zip Code: 78213
Address: 2000 NW Loop 410		
Tel #: (210) 375-9000	Fax#	E-Mail: jortega@pape-dawson.com
Signature:		

Additional Information – Subdivision Plat Variances & Time Extensions

- ☐ Time Extension
 ☐ Sidewalk
 ☐ Floodplain Permit
 ☐ Completeness Appeal

☒ Other N/A
- City Council District _____ 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? Floodplain? ☐ Yes ☐ No



June 27, 2019

Mr. Charles G. Johnson
City of San Antonio
Development Services Department
1901 S. Alamo
San Antonio, Texas 78204

Re: W-1 Leon Creek: Hwy 151 to Hwy 90 - Lower Segment
A/P #2473395
Environmental Variance
Request for UDC Section 35-523 (2010 Tree Ordinance - Heritage Trees within Floodplain)

Dear Mr. Johnson:

Kindly consider this letter as a formal request for an Environmental Variance from Section 35-523 "Tree Preservation" of the Unified Development Code. It is the intent of Section 35-523 of the Unified Development Code *"to allow the reasonable improvement of land within the city and the city's ETJ, while maintaining to the greatest extent possible, existing trees within the city and the ETJ and to promote a high tree canopy goal"*.

The W-1 Leon Creek: Hwy 151 to Hwy 90, Lower Segment Sewer Project is a necessary improvement to the San Antonio Water System (SAWS) sewer system in the Far West area of San Antonio. The W-1 Lower Segment Project replaces about 1.7 miles of 42- and 54-inch gravity sewer main with 72- and 78-inch gravity sewer main along Leon Creek. This project replaces aging infrastructure that conveys more than 70% of the sewershed's total flow to the treatment plant. This project is part of the work required by San Antonio's agreement with the U.S. EPA to address capacity constrained sewer infrastructure across the city.

The project runs north along the east side of Leon Creek from U.S. Highway 90 through the City of San Antonio (CoSA) Levi Strauss Park crossing under Enrique M. Barrera Parkway and traversing through Rodriguez County Park along the creek to the connection point with the existing 66-inch gravity sewer main, just east of Swaying Oaks Street and Swiss Oaks Drive. The project is located on private and public tracts of land within a 50-foot wide permanent easement for SAWS future operation and maintenance of the sewer main. A 30-foot temporary construction easement is also included in the Contract Documents to allow access and adequate space for contractors to install the proposed sewer infrastructure. Significant and Heritage trees have been preserved, to the extent possible, to meet the intent of the "Tree Preservation Ordinance" of the Unified Development Code at feasible locations throughout the project limits.

Many factors were considered to determine the most viable and cost-effective project alignment. The goal was to minimize impacts on private and public properties by establishing the alignment in close

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proximity to the alignment of the existing 42-inch gravity sewer main and by extending the alignment adjacent to an existing CPS Energy transmission easement. As part of the design phase, a tree survey was conducted, and heritage trees were identified within the proposed project limits and easement areas. Whenever possible, the proposed alignment tried to avoid significant and heritage trees. The design and proposed alignment minimize disruption to jurisdictional waters located within the project limits and areas nearby. In trying to keep with the spirit and intent of the preservation ordinance, a diligent effort was made to comply with the minimum preservation requirements for the 2010 Tree Preservation Ordinance within the 30- and 50-foot temporary construction and permanent easements as indicated on the W-1 Lower Segment Project Tree Stand Delineation Plan.

Most of the project site is located within the 100-year regulatory Federal Emergency Management Agency (FEMA) floodplain. Per Table 523-1B of the 2010 Tree Preservation Ordinance, the minimum preservation requirement is 80% of the total existing canopy area and 100% of the heritage trees within the 100-year FEMA floodplain. As indicated on the Project's Tree Stand Delineation Plan, the project preserved 59% of the total canopy area within the floodplain. Due to the size of the proposed sanitary sewer pipeline and required installation depths of up to 30-feet, several heritage trees need to be removed within the floodplain. The project preserves 26% of the heritage trees within the floodplain. The project exceeds the minimum preservation requirements of 80% and 25% of the total existing canopy area within the floodplain buffer and uplands, respectively. The heritage tree preservation requirement within these two areas is 100%.

The calculated mitigation fee for the 21% (80% - 59%) of total canopy that could not be preserved within the floodplain is \$494,554. Of the 591 heritage tree inches, 156 inches will be preserved, and 435 inches will be removed. There is one 28-inch Ash tree that will be mitigated 1:1 and the remaining 407 inches will be mitigated 3:1. This results in a mitigation fee of \$5,600 for the Ash tree and \$244,200 for the remaining heritage trees; therefore, we hereby request a variance to pay \$744,354 (\$494,554 + \$5,600 + \$244,200) into the mitigation fund for the canopy and heritage tree inches that need to be removed. Within the project limits there is 602,743 square feet of disturbed area and 602,743 square feet of revegetated area. Reclamation criteria include re-seeding 602,743 square feet of disturbed area within the floodplain and adjacent Riparian Buffer and reclaiming disturbed areas by drill seeding with a native seed mix and ensuring 85% establishment. SAWS kindly requests reducing the mitigation fee by fifty percent for going above and beyond with respect to the reclamation criteria and exceeding the minimum preservation requirements within the floodplain buffer and upland areas. The reduction would result in a mitigation payment of \$372,177 to the Tree Mitigation Fund.

Although SAWS has the right for ingress and egress to access the permanent easements for operation and maintenance requirements, the hardship for complying totally with the minimum preservation requirements are:

- The construction of the W-1 Lower Segment Project is critical to SAWS and the City of San Antonio as it pertains to the health and welfare of the public. The existing sanitary sewer system is undersized and is susceptible to sanitary sewer overflows, which are a threat to public safety. The Project provides immediate relief from persistent sanitary sewer overflows experienced at Swiss Oaks, which is the upstream end of the project. The diameter, depth of installation, and overall magnitude of the project require SAWS to procure

Mr. Charles G. Johnson
W-1 Leon Creek: Hwy 151 to Hwy 90 - Lower Segment
Environmental Variance
June 27, 2019
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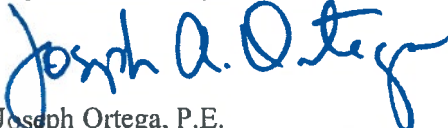
necessary space for the construction contractor to successfully complete the project within the Consent Decree timeline. The contractor has to use the total easement area for the duration of the project, thus limiting the amount of easement area potentially available to preserve trees.

- Newly planted trees are not an option for this project as SAWS requires the easement area to be clear for future access to the sewer main for maintenance and operation of the sewer main.
- The granting of the environmental 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.

It is our professional opinion that the proposed environmental variance remains in harmony with the spirit and the intent of the UDC as it will not adversely affect the health, safety, or welfare of the public, nor does it weaken the general purpose of the tree preservation regulation.

We respectfully request your consideration for this variance. The Administrative Exception/Variance Request Application is attached, as required. If you have questions or require additional information, please do not hesitate to contact our office.

Sincerely,
Pape-Dawson Engineers, Inc.



Joseph Ortega, P.E.
Sr. Project Manager

Attachment

For Office Use Only:

AEVR #: _____

Date Received: _____

DSD – Director Official Action:

☐ APPROVED

☐ APPROVED W/ COMMENTS

☐ DENIED

Signature: _____

Date: _____

Printed Name: _____

Title: _____

Comments: _____



CITY OF SAN ANTONIO

DEVELOPMENT SERVICES DEPARTMENT

VARIANCE REQUEST ANALYSIS

TPV 19-022

Project:	W-1 Leon Creek Hwy 151 to Hwy 90
Address:	Leon Creek Drainage
A/P #/PPR #/Plat#:	A/P #2473395
VR Submittal Date:	June 27, 2019
VR Submitted by:	Mr. Joseph Ortega of Pape-Dawson Engineer on behalf of Juan Gomez of the San Antonio Water System.
Issue:	Below 80% significant tree and 100% heritage tree preservation within 100-year Floodplain (2010 Ordinance)
Code Sections:	Unified Development Code (UDC), Section 35-523 (h).
By:	Herminio Griego, Assistant City Arborist

The Development Services Department (DSD) reviewed the information presented in Mr. Joseph Ortega's letter dated June 27, 2019.

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 the 100-year floodplains 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 tree stand delineated trees within the Floodplain in excess of the 80% minimum preservation of protected significant trees and 100% minimum preservation of heritage trees in place under the 2010 Tree Preservation Ordinance for development of San Antonio Water System (SAWS) W-1 Leon Creek project (the Project). DSD staff does agree with the applicant's request to mitigate via enhanced revegetation and payment into the Tree Mitigation Fund for tree stand determined to be below 80% significant tree preservation and 100% heritage tree preservation in the floodplain for the following reasons:

1. *Existing site conditions* – The W-1 Leon Creek sewer project is required pursuant to the agreement between the City of San Antonio and the United States Environmental Protection Agency to address capacity constrained sewer infrastructure across the City of San Antonio. The Project is essential for the health and welfare of San Antonio's

citizenry. The Project consists of replacing 1.7 miles of forty-two (42) and fifty-four (54) inch sewer lines with seventy-two (72) and seventy-eight (78) inch gravity sewer mains. The project runs along the north side of Leon Creek between Hwy 151 and Hwy 90. The Project encompasses 602,743 square feet of disturbed area with a fifty (50) foot wide permanent SAWS easement and thirty (30) foot wide temporary construction easement. The majority of the project is located within the 100-year floodplain. Multiple alignments were evaluated to optimize design and budget while minimizing tree impacts.

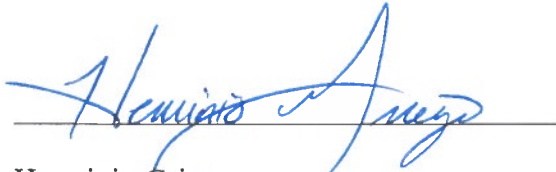
The sewer lines require excavation to depths of thirty (30) feet below ground surface. The Tree Stand Delineation Plan indicates that fifty-nine (59) percent of the total canopy in the floodplain will be preserved and one-hundred (100) percent of the canopy will be preserved in the Upland and Environmentally Sensitive Areas. The Project includes 591 inches of heritage trees. Of these one-hundred and fifty six (156) will be preserved and four hundred thirty five (435) inches will be removed.

2. *Tree mitigation and canopy diversity* – The applicant opted to provide mitigation above and beyond the minimum required in the UDC as identified below: The Project will meet the Floodplain Tree Stand Delineation mitigation requirements as follows:
 - a. Re-seeding 602,743 square feet of disturbed area, both inside and outside of the floodplain;
 - b. Reclaiming disturbed areas by drill seeding with a native seed mix and ensuring 85% establishment; and
 - c. Payment into the Tree Mitigation fund as follows:
 - i. Tree Stand: $80\% - 59\% = 21\% = \$494,554.00$
 - ii. Heritage Trees:
 1. 1:1 ratio = \$5,600.00
 2. 3:1 ration = \$244,200.00
 - iii. Total Payment = \$744,354.00.

SAWS is requesting consideration of a fifty percent (50%) reduction in the mitigation fee for going above and beyond with regards to reseedling techniques inside and outside of the floodplain. If approved, the reduced mitigation payment would be \$372,177.00.

DSD staff supports the applicant's request to fall below 80% Significant Tree and 100% Heritage Tree requirements in the floodplain based on the conditions of the site, the need to address the current capacity constrained sewer lines, and exceeding mitigation and tree stand delineation requirements. The proposed Variance Request meets the intent and spirit of the Tree Ordinance therefore, staff recommends approval.

RECOMMENDATION: Approval of Variance Request



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

7-11-19

Date



Kevin Collins
Development Services Engineer
DSD – Land Development - Engineering

7/15/19

Date

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



for Melissa Ramirez
Assistant Director
DSD – Land Development

7/15/19

Date