



City of San Antonio

Agenda Memorandum

File Number:17-2301

Agenda Item Number: 9.

Agenda Date: 5/24/2017

In Control: Planning Commission

DEPARTMENT: Transportation & Capital Improvements (TCI)

SUBJECT:

Excavation and Fill in Floodplain; 7700 Jones Maltsberger Rd

SUMMARY:

FPV #17-004: Request by Pape-Dawson for approval of a variance request associated with proposed excavation and fill for a parking lot in the 1% Annual Chance Flood Hazard Area for a commercial tract at 7700 Jones Maltsberger Rd, San Antonio, Texas, 78216. Staff recommends Approval. (Sitework Permit AP#2235859) [Noah Parsons, Engineer, (210) 207-8058, noah.parsons@sanantonio.gov, TCI Department]

BACKGROUND INFORMATION:

Council District:	District 1 - San Antonio
Filing Date:	March 19, 2017
Owner:	Milam 100 Concord LLC
Engineer/Surveyor:	Pape-Dawson Engineers
Staff Coordinator:	Noah Parsons, Engineer, (210) 207-8058

ANALYSIS:

Variance Request:

On March 17, 2017, the applicant requested a variance from Section 35-F133(c)(2) of the Unified Development Code (UDC). Transportation & Capital Improvements has no objection to the granting of the variance as indicated in the attached letter (**ATTACHMENT #1**). Pape-Dawson's request with an exhibit of the area is also attached. (**ATTACHMENT #2**)

Flood Study:

A flood study was prepared to support reclaiming the subject site from the effective floodplain for proposed development. The study has shown no increases of water surface elevations on Airport Tributary for the FEMA 1% annual chance floodplain due to compensatory excavation and indicated no adverse impact to adjacent properties with the proposed improvements. The project proposes to excavate and fill by as much as 3 feet on the owner's property.

The proposed improvements are located on a property directly east of Jones Maltsberger Road, just west of US 281, within the Airport Tributary floodplain.

It is noted that Sitework Permit #2235859 and the associated Floodplain Development Permit (FPDP) will not be issued for construction that will result in changes to the floodplain boundary until this variance is approved by Planning Commission and until TCI Stormwater approves all other drainage and flood-related components.

Aquifer Review:

The subject property is not located within the Edwards Recharge Zone.

ALTERNATIVE ACTIONS:

Sitework Permit consideration **without** a Variance:

Sitework Permit will not be approved due to lack of compliance with Section 35-F125 (a) (6) of the Unified Development Code, which states that “development will not be allowed in the 1% annual chance regulatory floodplain for reclamation in overbank areas that are subject to flood depths greater than three (3) feet.” This project proposes to reclaim over three (3) feet of depth on the owner’s property.

Secondly, the Sitework Permit will not be approved due to lack of compliance with Section 35-F124 (c) (4) of the Unified Development Code, which states, “No increase in water surface elevations or velocities upstream and downstream outside of the owner’s property limits.” The impact from the grading changes of this project causes water surface elevation increases in the TXDOT right of way, beyond the owner’s property.

Lastly, The proposed development does not meet the following UDC requirement of Section 35-F133(c) (2) of the UDC which states that “No construction activity that will result in a change in the alignment, width, or elevation of a FEMA designated 1% A.C. current conditions floodplain is allowed prior to a conditional letter of map revision (CLOMR) being submitted to FEMA. Additionally, no subdivision plats with easements that are based on revisions to a 1% A.C. current conditions floodplain shall be approved prior to a CLOMR being approved by FEMA.” This variance intends to waive this requirement of the UDC and issue a floodplain development permit (FPDP) and allow the approval of the Sitework Permit for the proposed excavation and fill before the CLOMR is approved by FEMA.

Therefore a variance is required for these three conditions, along with TXDOT concurrence for the 2nd condition.

Sitework Permit consideration **with** a Variance:

Per Section 35-F135 (a) (1) of the Unified Development Code, “The planning commission shall consider requests for variances from the requirements of these regulations. Variance requests shall be processed as follows: For cut and/or fill, building, building permits, or establishment of a mobile home site, the applicant shall present the disapproved permit to the director of development services together with information as to why the variance should be granted. The commission will then hear the request as soon as practical.”

In accordance with UDC 35-483 the Planning Commission shall render a written finding of the variance by approving, denying, or approving with conditions.

1. Approve with conditions: In granting variances, the commission may impose such

reasonable conditions as will ensure that the property will be as compatible as practical with the regulations and surrounding properties.

2. **Approval criteria:** The planning commission may grant variances if it concludes that strict compliance with regulations would result in practical difficulties or unnecessary hardships for the applicant and that, by granting the variance, the spirit of these regulations will be observed, public safety and welfare secured, and substantial justice done. The planning commission may grant a variance only if it finds that:
 1. The proposed variance will not be contrary to the spirit and intent of this code and the regulations from which the variance is requested and the proposed variance complies with all other applicable standards of subsection [35-432](#) [<https://www.municode.com/library/>](https://www.municode.com/library/)(e) to the extent practicable; and
 2. The hardship relates to the applicant's land, rather than personal circumstances; and
 3. The hardship is not the result of the applicant's own actions and that the applicant has taken all practicable measures to minimize any adverse impacts on the public health, safety and public welfare;
 4. Under the circumstances, the public interest underlying the proposed variance outweighs the public interest underlying the particular regulation for which the variance is granted; and
 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.
3. **Denial:** The Planning Commission may disapprove a variance based on staff error by specifically identifying non-compliance with the Unified Development Code.

RECOMMENDATION:

Staff reviewed the request and found it to be in conformance with the Unified Development Code (UDC) with exception of the Variance mentioned above. In regards to this Variance, staff does concur with the applicant's justification. Therefore, the Director of Transportation & Capital Improvements recommends approval of the Variance.