

Environmental Variance Exception Review

April 2, 2024

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

Re: Vida San Antonio Phase 1A/1B, TRE-APP-APP22-38800306
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 Environmental Variance request (AEVR) is submitted on behalf of Southstar at Verano Investment, LLC, owner of an existing tract located approximately 1,000 L.F. south east of the intersection of I-410 Access Rd. and S. Zarzamora St. in San Antonio, Texas (the "Property"). This Property is subject to the 2010 City of San Antonio Tree Ordinance which states that each builder on a single-family dwelling shall preserve 80% of all the trees within the environmentally sensitive area including easements and rights-of-way, as stated in the Unified Development Code 35-523 (h) and Table 523-1A under Environmentally Sensitive Areas (ESA). The purpose of this AEVR is to request an exception to this UDC design requirement and grant the Tree Master Plan for Vida Phase 1A/1B (the "Project") permission to exceed the minimum mitigation allowed.

The Project consists of 70.75 AC of developed & undeveloped land and is going to be fully developed as 266 Single Family homes, 22 Townhomes, and an Amenity Center. 10.17 AC of the Project is within the 100-yr floodplain and environmentally sensitive areas, where 8.40 AC is considered permeable and 1.77 AC non-permeable.

Current Site Conditions

The tree preservation plan for the Vida Phase 1A/1B Master Tree Plan (the "Project") was originally approved with all Tree ordinance requirements being met. Tree Tag #13004 (15" Hackberry) within the 30 foot Riparian Buffer stood within the vicinity of a proposed detention basin. To ensure and protect the integrity of the root protection zone and preserve this ESA Tree, a retaining wall was proposed and constructed (See figure 3 below). Through the progression of the construction on this site, it was noted how the proposed basin was not constructed accordingly and that tree tag #13004 was not being protected as called out on the construction plan set (See figure 1 and figure 2 below). This construction mishap caused tree tag# 13004 to have its trunk buried at least 4 feet within the proposed basin berm, consequently inducing stress and declining its' overall health.

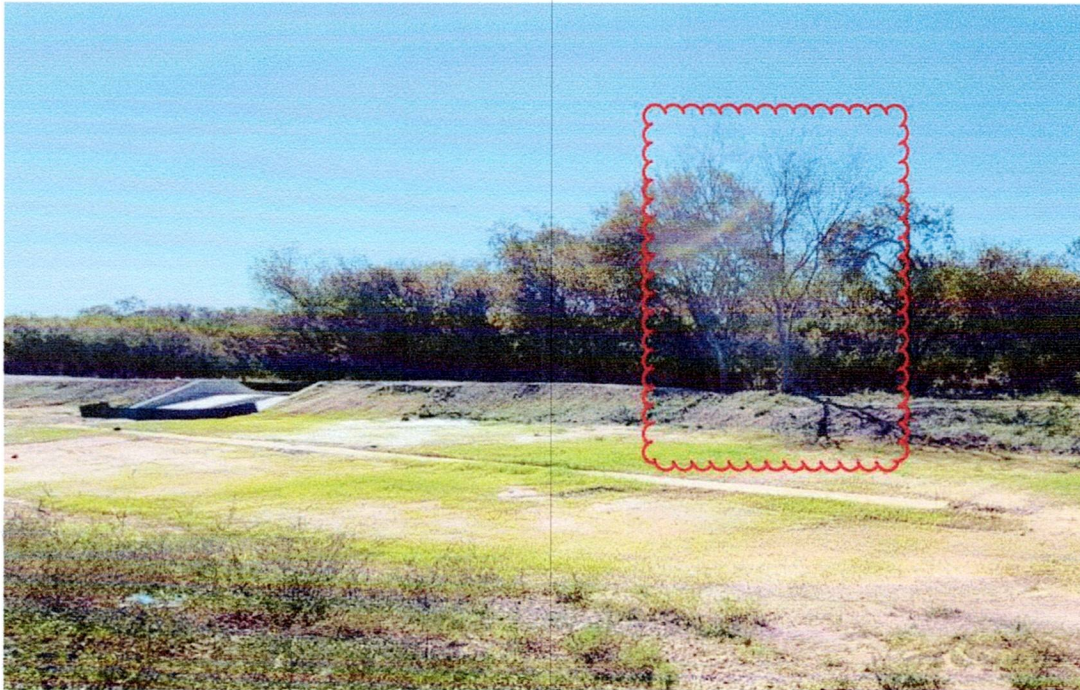


Figure 1 Initial Basin Construction Update with Tree Tag# 13004 Red Clouded (Dated: 11/8/21)



Figure 2: Construction Update Tree Tag# 13004 (Dated: 11/8/21)

Southstar notified the contractor of these discrepancies and requested the construction be revised quickly to avoid further impact and stress on tree tag #13004. By the following field construction update (12/28/21), the requested updates had been completed. The proposed wall fenced around tree tag# 13004 can be seen below on figure 3. In addition to illustrating the proposed wall, figure 3 demonstrates the declining health of this tree species after enduring stress for an extended period. This species was categorized as a significant tree (10" – 23.5") within the 30 ft Riparian Buffer. This Tree species categorization had a total preservation total of 100%. With the reclassification of this tree from preserved to removed, the preservation percentage has declined from 100% to 68% preservation, consequently going below the minimum preservation requirements for trees in the Floodplain Buffer/ESA.



Figure 3: Images of Tree Tag #13004 Taken (12/28/21)

Tree Preservation Mitigation

Overall required mitigation for falling below 80% preservation within the Environmental Sensitive Area totals 6.0 inches. Mitigation within the Project surpasses the overall requirement by 149.50 inches. The excess mitigation has been accomplished through the planting of two large species at 2.5 inches at each residential lot (266 lots), and 1 – 3" species tree added to each townhome lot. In addition to these proposed mitigations measures, Southstar has proactively implemented a landscaping plan for the entirety of the tract with the sole purpose of promoting the welfare and overall health of the Vida San Antonio Community. This landscaping plan includes the addition of 231.5 inches. Per the previous amendment, TPV 23-150, this landscaping plan entered maintenance agreement services with the city as part of Southstar commitment and dedication to the community and the City of San Antonio. In total, the proposed mitigation for this site is 796.50 inches. Beyond the proposed mitigation, Southstar has surveyed undersized species within the last undeveloped tract of the Project, the Amenity Center.

A total of 13 species were surveyed with 11 currently being proposed to be preserved. These 11 species provide 30 additional mitigation Inches that will ultimately mature to their true size. Southstar continues to implement measures to protect these trees during development while advocating among builders and homeowners to support the City of San Antonio standards. Measures include the incorporation of cyclone fencing on the currently proposed preserved trees within the Amenity Center and avoid any construction disturbance from impacting these Trees. In addition to the cyclone fencing, Southstar has proposed to pursue violators to every extent possible.

To maintain and support the well-being of trees within the Vida community, Southstar has contracted an onsite maintenance team tasked with maintaining irrigation, and trimming to approved guidelines while engaging with contracted arborist for guidance.

Environmental Variance Exception

The applicant has taken all practicable measures to minimize any adverse impacts on the public health, safety and public welfare. Although the minimum preservation percentage for Significant and Heritage trees in the Floodplain Buffer/ESA cannot be met, the developer has proactively enhanced the total mitigation requirement by a total of 149.50 Inches over the minimum.

The following items are addressed as required by the UDC for Variances, UDC Section 35-523(h):

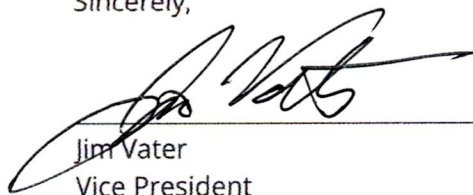
- (1) The hardship requiring this variance is unique to the Property. The reason the owner is unable to preserve 80 percent of significant trees within the floodplain and environmentally sensitive areas is due to the location of these trees and the amount of species that fell within this criteria. A total of 3 tree species for a total of 47 inches were categorized under the significant 30 ft Riparian Buffer. The inadvertent consequences of construction activity resulting in the health decline and ultimate removal of Tree species tag # 13004, decreased the preserved inches to 32 (68 percent preservation).
- (2) This variance corresponds to the spirit of the UDC. This variance corresponds with the spirit of the UDC as this tree preservation plan was originally approved with this Tree species being preserved and precautionary measures implemented into the design such as the retaining wall, to ensure the preservation of this Tree. The sole reason for this variance is due to the construction activity implications caused to Tree tag # 13004 in the process of providing the proposed wall along the outside perimeter of its Root Protection zone to ensure its health and preservation remained.
- (3) The Owner has sought to minimize any potentially adverse impacts on the public health, safety, and welfare. The overall mitigation requirements are being exceeded; therefore we will not cause an adverse impact. The proposed landscape improvements will promote public health and happiness while creating an urban environment feel to the community of Vida San Antonio.

- If the applicants comply strictly with UDC Sec. 35-523 (h), they cannot make reasonable use of their property. The applicant cannot comply strictly with UDC Sec. 35-523 (h) as there are no longer any existing Significant trees left to preserve within the 30 ft Riparian Buffer. With the limited amount of 3 species overall, the limit for removal of any of these trees was 0. Developer took every applicable measure to preserve all 3 species with the ESA including providing a retaining wall to maintain the integrity of the tree root protection zone. The cause for the Tree species being reclassified from its initially preserved state to removed was out of the control of the applicant. In order for the owner to make reasonable use of his property, this variance is required.
- The hardship in question relates to the owners' land, rather than personal circumstance. This Environmental Variance is required due the limited amount of Significant trees available within the 30 ft Riparian Buffer. 3 species in total for a collective 47 inches were available and the removal of a 15" tree decreased the 100% preservation total to 68%. Vida San Antonio Phase 1A/1B has been fully constructed, while the townhomes are currently under construction. Significant preservation criteria had previously been met accordingly, and due to the unforeseen hardship of Tree tag # 13004 being severely impacted during the construction activity and ultimately being removed has driven the required minimum preservation code highlighted in section 35-523 (f) Table 523-1A to not be met in its entirety.
- 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. This hardship is not a result of the applicant's own actions, as the tree species within the Floodplain Buffer/ESA were identified and acknowledged at the design stages of the site. Precautionary measures were implemented to ensure the integrity of the Tree species tag #13004 root protection zone remained. This species was identified to be essential in preservation as the removal of this species or any of the other two (2) Trees available, would cause the percentage to be below the 80% threshold. The hardship of Tree tag #13004 being impacted during the construction activity for its preservation is not of self-imposed actions.

Summary

Despite efforts to ensure the preservation of all 3 species within the Environmentally Sensitive Areas, precisely that of Tree tag #13004 and the retaining wall constructed and as shown on the previously approved Tree Preservation Plan (TRE-APP-APP22-38800306), a significant tree was lost during development. The hardship of unexpected construction activity imposed and around tree tag# 13004 located on Vida San Antonio Phase 1A/1B has led to the unsatisfactory execution of Unified Development Code the City of San Antonio. Southstar acknowledges the Project no longer meets the required minimum preservation due to actions that occurred in the field, and submits the revised amended Tree Preservation Plan to reconcile the unintentional damage. Southstar will continue to mitigate beyond the required amount while maintaining an onsite presence to support the health of preserved and new trees. Southstar respectfully requests this Environment Variance exception to allow development to continue while continuously endeavoring to protect trees while creating a healthy, safe community for its residents. Thank you for your time and consideration on this foregoing request.

Sincerely,



Jim Vater
Vice President

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:				