

January 16, 2023

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



Re: Elizondo Subdivision, AP# 21-38800077  
UDC Sec. 35-523 (h), Table 523-1A Minimum Tree Preservation Requirements

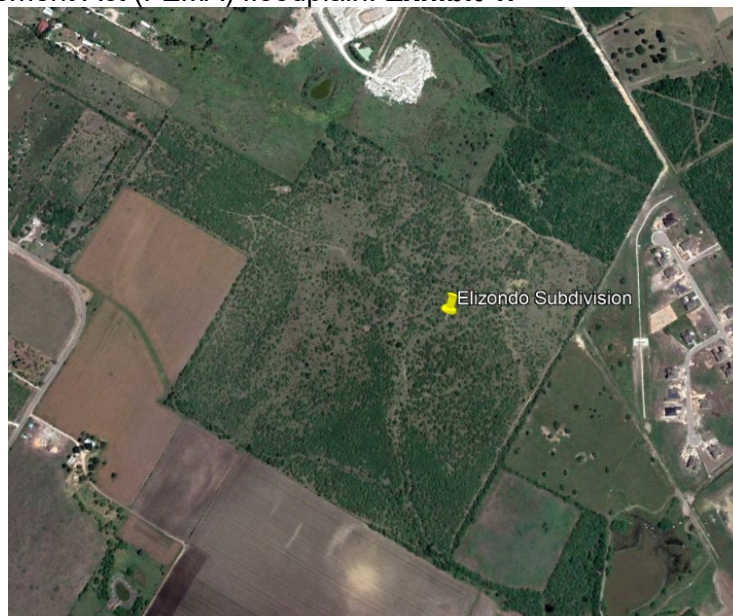
- Administrative Exception
- Environmental Variance
- Subdivision Platting Variance – Time Extension

Dear COSA DSD;

The following variance is submitted on behalf of Emiliano Guerrero, Forestar (USA) Real Estate Group, Inc., Director of Land and representative to the owner of an existing tract of land to be developed as Single Family Residential located southwest of the intersection of I-10 E & FM 1518 located in Bexar County within the City of San Antonio ETJ (the "Property"). The land requiring the variance is a 152.78 acre site described in MDP#21-11100009.

The purpose of this letter is to request a variance to the Unified Development Code 35-523 (h) which states "Significant trees shall be preserved at eighty (80) percent preservation within both the 100-year floodplains and environmentally sensitive areas...Mitigation shall be prohibited in floodplains and environmentally sensitive area." and which also states "Significant trees shall be preserved at thirty-five (35) percent preservation within each platted lot, excluding right of way and easements..."

At existing conditions, the project site is moderately wooded with a canopy cover greater than or equal to 70%. The topography ranges from 0%-10% and is located adjacent to the Federal Emergency Management Act (FEMA) floodplain. **Exhibit 1.**



### Exhibit 1

Due to Atlas 14 floodplain delineation, the proposed site had to be embanked to properly detain runoff and meet UDC regulations. However, this also made it unable to preserve some existing trees. Extreme topography and the existing features of the site including a pond and a stream running through the site, excess excavation and embankment is necessary for the improvement of the existing channel and for this development.

The mass grading of the proposed site is problematic because **80% preservation could not be attained for significant species trees within the 30' Riparian Buffer/Environmentally Sensitive Area** thus requiring this variance. There have been many attempts to revise the proposed site configuration and grading plan to preserve additional significant species trees in the environmentally sensitive area. However, with numerous alterations to the site none effectively stay in compliance and demonstrate the intent of the Unified Development Code. **Reference Tree Preservation Table.**

Tree Preservation Table		
	Preservation Percentage	Mitigation Required
30' Riparian Buffer Significant Species (6.0" – 23.99")	55%	31 inches
	<b>Total</b>	31 inches

To properly mitigate for this removal of Riparian Buffer Significant Trees, and thus stay in compliance with the Unified Development Code 35-523 (h) and Tree Preservation Ordinance, the developer is proposing to do the following depicted in the table below:

Tree Mitigation Table		
Mitigation Method	Number of Lots/Trees Planted	Inches of Mitigation Planted
Circle Lots: (0.5 inches/ tree * 2 tree/ lot = 1 inches/ lot)	167 lots	167 inches
Triangle Lots: (0.5 inches/ tree * 2 tree/ lot + 2 inches/ additional tree * 1 additional tree/ lot = 3 inches/ lot)	142 lots	426 inches
Square Lots: (0.5 inches/ tree * 2 tree/ lot + 2 inches/ additional tree * 1 additional tree/ lot = 3 inches/ lot)	304 lots	912 inches
	<b>Total Inches Planted</b>	1,505 inches
	<b>Mitigation Required</b>	31 inches
	<b>Excess Mitigation</b>	1,474 inches

The goal of this variance is to properly mitigate for tree removal within Elizondo Subdivision, and ultimately increase the canopy within the site (**Reference Tree Preservation Plan AP#21-3880077**). The developer is proposing to plant a total of 1,505 inches to mitigate the removed trees which will provide an excess of 1,474 inches over the required mitigation. The proposed tree plantings are intended to bring Riparian Buffer Significant Trees up to 80% preservation in Elizondo Subdivision, demonstrating the intent of the Unified Development Code.

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

- (1) The hardship requiring this variance is unique to the Property. The reason the owner is unable to preserve 80% of Significant trees in the 30' Riparian Buffer is due to the limited number of trees located in this environmentally sensitive area and due to the grading requirements necessary to provide proper drainage for the future residents. The reason the owner is unable to preserve a minimum of 20% of the existing Significant and Heritage trees in the platted lots is due to the grading requirements of the site which are necessary to provide proper drainage of the future subdivision residents.
- (2) This variance 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 owner has analyzed multiple lot configurations.
- (3) The Owner has sought to minimize any potentially adverse impacts on the public health, safety, and welfare. The purpose of the proposed plantings is intended to mitigate Elizondo Subdivision back to 35% of Significant Trees, back to 100% of Heritage Trees and back to 80% of trees located within the 30' Riparian Buffer.
  - If the applicants comply strictly with UDC Sec. 35-3 (f), they cannot make reasonable use of their property. In order for the Property to be developed for Ultimate Development, excess embankment is necessary to achieve both proper drainage within each platted lot and proper detention within the site. To comply with the Atlas 14 floodplain delineation and UDC guidelines, KFW Engineers must practice embankment throughout the site. Therefore, in order for the owner to make reasonable use of his property, the existing tree removal is required.
  - The hardship in question relates to the owners' land, rather than personal circumstance. This variance 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 owner is modifying the floodplain portion of the site, but as the Atlas 14 floodplain was established, extreme grading practices along with grading in the floodplain became necessary for the Ultimate Development of the site.

In conclusion, granting this variance and permitting Emiliano Guerrero, Director of Land for Forestar (USA) Real Estate Group, Inc. to remove the existing Significant Trees located in the 30' Riparian Buffer (**Reference Tree Preservation Plan AP#21-38800077**) 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,

DocuSigned by:  
*Emiliano Guerrero*  
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Emiliano Guerrero, P.E.  
Director of Land

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