



City of San Antonio

Agenda Memorandum

File Number:
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Agenda Item Number: {{item.number}}

Agenda Date: September 21, 2023

In Control: Planning Commission Meeting

DEPARTMENT: Development Services Department

DEPARTMENT HEAD: Michael Shannon

COUNCIL DISTRICTS IMPACTED: District 9

SUBJECT:

An appeal of the Director's decision to deny a request for vested rights.

SUMMARY:

The Development Services Department has evaluated an application, submitted by Killen, Griffin, and Farrimond, seeking vested rights for 11.089 acres of land generally located at the northeast intersection of Canyon Golf Road and Stone Oak Parkway. Specifically, the applicant sought vested rights for commercial/office land uses vested to June 5, 1985, which was ascertained to be the acceptance date of Preliminary Overall Area Development Plan (POADP) 48: Stone Oak POADP. The land uses established by this underlying permit, for this subject property, included “P” Public, “C-2” Community Commercial, “O” Office.

During staff’s technical review, it was determined that the property did not qualify for vested rights because:

- POADP 48 was amended on June 23, 2006. This amendment was submitted and accepted as POADP 48-A. Specifically, the area for which the applicant is seeking vested

rights had a change in planned land use from “P” Public to “MFB/C-2/O” Multi-Family Business/Community Commercial/Office.

- Because the planned land use changed in 2006, the applicant cannot obtain vested rights back to June 5, 1985.

In staff’s decision letter, the portion of the property that was unchanged by POADP 48-A, being a total of 6.00 acres, was approved for vested rights back to the original POADP 48, with the vested date of June 5, 1985.

Staff approved the remaining 5.089 acres for vested rights to June 23, 2006, the acceptance date of POADP 48-A.

BACKGROUND INFORMATION:

During staff’s review of the request for vested rights it was found that multiple applications for vested rights, for this property, have been approved previously. Specifically, those approvals include:

- RD-11-10-010
 - Date Approved: March 8, 2011
 - Vested Date: June 5, 1985
 - Land Uses: Commercial
 - Acreage: 12.81 acres
- RD-14-00082
 - Date Approved: February 4, 2015
 - Vested Date: June 5, 1985
 - Land uses: Commercial, Multi-Family
 - Acreage: 11.088 acres

Staff was unable to determine how vested rights were previously acknowledged for this parcel based on the 2006 POADP amendment.

ISSUE:

The Rights Determination process allows an applicant to complete a project under the rules that were in place when the project was originally initiated. Rights are established for a project based on the first permit in a series of permits that are required for the project and require the applicant to demonstrate progress on the project every five years. However, when amendments to underlying permits are submitted and accepted, this action is reset to the date of that major amendment.

The review and final consideration of an application is done administratively in accordance with Unified Development Code Section 35-712 and Chapter 245 of the Texas Local Government Code. Appeals are considered by Planning Commission and City Council.

The applicant filed an appeal on May 26, 2023, based on the City’s partial-approval of statutory rights associated with LAND-RD-23-12500016, NEC of Canyon Golf and Stone Oak Parkway. The Unified Development Code (UDC) §35-712(d) authorizes the Planning Commission to hear such appeals. In this appeal, the applicant questions the City’s

determination not to recognize rights for the project based on: 1) the presense of two (2) previous approvals for vested rights in 2011 and 2015 and; 2) the applicant ascertains that the initial designation of “P” Public land use was not actually a designated land use and, if it was, was only a “secondary” or “overlay” land use if the property was owned/operated by a valid governemntal entity. However, the underlying permit, POADP 48, established no other land use for that portion of the tract. One cannot declare the presence of land uses not originally shown on the underlying permit years after the underlying permit was approved.

ALTERNATIVES:

Planning Commission is asked to determine whether staff made the correct decision is only partially-approvinng the vested rights for the subject property. The Planning Commission may choose to uphold staff’s decision or reverse staff’s decision.

RECOMMENDATION:

Staff recommends Denial of the appeal based on the following:

- The underlying permit did not include all of the land uses sought in the vested rights application; and
- POADP 48-A was a major amendment that resulted in a change of the project and a reset in the vesting date for a portion of the tract.
- Staff errors from years prior do not require that staff perpetuate those errors in perpetuity.