

**DEPARTMENT:** Development Services

**DEPARTMENT HEAD:** Michael Shannon

**COUNCIL DISTRICTS IMPCTED:** ETJ

**PROJECT:** TPV 22-039 TRE-APP-APP21-38800077 – Elizondo Subdivision

**SUBJECT:** TPV 22-039 TRE-APP-APP21-38800077 – Elizondo Subdivision Variance Request

Variance Request to mitigate for removal of significant trees in excess of the 80% tree preservation requirements and below 100% preservation of heritage trees within the Floodplain & Environmentally Sensitive Areas in place under the 2010 Tree Preservation Ordinance.

**SUMMARY:**

Requested by Travis Elseth, P.E. with KFW Engineers for a variance to remove trees in excess of the 80% preservation of significant tree preservation within the Environmentally Sensitive Areas and 100% heritage tree preservation requirement within the Floodplain as stated under the 2010 Tree Preservation Ordinance. Staff supports the variance request.

**BACKGROUND INFORMATION:**

Council District: ETJ

Filing Date: January 25<sup>th</sup>, 2022 KFW Engineers on behalf Forestar Real Estate Group, Inc.

Applicant/Project Manager: Travis Elseth

Staff Coordinator: Herminio Griego, Assistant City Arborist, 210-207-6042

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**ANALYSIS:**

The Development Services Department (DSD) has reviewed the information presented in Mr. Travis Elseth's letter dated January 7th, 2022. 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 both the 100-year floodplain 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 significant trees in excess of the 80% preservation requirements within the Environmental Sensitive Area (ESA) in place under the 2010 Tree Preservation Ordinance for construction of Elizondo Subdivision. DSD staff does agree with the applicant's request to mitigate for the removal of significant trees below 80% for the following reasons:

1. *Existing site conditions* – 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 FEMA floodplain. 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 trees within the 30' riparian buffer. There have been many attempts to revise the proposed site configuration, but none effectively stay in compliance and demonstrate the intent of the UDC.

On a follow up tree final inspection performed on 12/16/2022, the tree inspector observed three saved trees damaged due to construction activities and one tree died due to natural causes. The applicant updated the tree preservation plan per the tree inspectors' comments which further reduced the amount of preserved trees within the ESA that was previously approved. Below are the updated tree preservation calculations for the ESA:

- a. ESA Significant Inches = 122 inches total (10 trees), 45 inches removed (4 trees), 77 inches preserved (6 tree), 63% preservation ratio, 20.6 inches of required mitigation.
2. *Tree mitigation and canopy cover* – The total mitigation required for removing the ESA significant trees is 20.6 caliper inches. The owner proposes to mitigate by upsizing all newly planted trees from 1.5 inches to 2 inches and planting a third tree on 450 lots. Total inches planted for mitigation is 1,510 inches.

DSD staff supports the applicant's request to fall below 80% significant trees preservation within the ESA based on the proposed plan to meet tree mitigation requirements by upsizing mitigation trees from 1.5 inches to 2 inches, exceeding mitigation requirements by 1,489 inches and meeting tree canopy cover requirements. The proposed Variance Request meets the intent and spirit of the Tree Ordinance therefore, staff recommends approval.

**ISSUE:**

The applicants project proposes removal of significant trees in the ESA and does not meet the required minimum preservation of 80% for Significant trees within the Environmentally Sensitive Areas.

**ALTERNATIVES:**

Planning Commission may decide to deny the variance, which means the applicant will have to comply with the Tree Preservation Ordinance.

**RECOMMENDATION:**

DSD staff recommends approval of the proposed variance.