



MACINA • BOSE • COPELAND and ASSOCIATES, INC
CONSULTING ENGINEERS AND LAND SURVEYORS

1035 Central Parkway North, San Antonio, Texas 78232
(210) 545-1122 FAX (210) 545-9302
TBPE Firm Registration #784 | TBPLS Firm Registration #10011700 | SBE Certified #214046463
www.mbcengineers.com

March 13, 2023
Revised March 27, 2023

Environmental Variance Request Review
c/o Development Services Staff
Development Services Department
City of San Antonio
1901 S. Alamo
San Antonio, Texas 78204

RE: P. Terry's Broadway – Site Work Permit / Tree Preservation
A/P# COM-PRJ-APP22-39802236
Environmental Exception to UDC Sec. 35-523, Tree Preservation, minimum 80% preserved in-
place within the ESA

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

Attn: Mr. Jacob Sanchez
Senior Engineer
Development Services Department

Dear COSA DSD:

The following environmental variance request is submitted on behalf of Terry Enterprises, LLC (the "authorized agent"), of an existing approximately 0.70-acre tract of commercially developed land located at the intersection of Broadway Avenue and Natalen Avenue in San Antonio, Texas (the "Property").

The code issue this variance request is in response to is defined in UDC Sec. 35-523(h) – 100-Year Floodplain(s) and Environmentally Sensitive Areas. Significant trees shall be preserved at eighty (80) percent preservation within both the 100-year floodplains and environmentally sensitive areas

We are requesting that variance be granted to allow the project to move forward without preserving the minimum 80% of the existing Protected Trees within the Riparian buffer/ Environmentally Sensitive Area, Other this this condition the proposed construction will comply with the applicable sections of the Unified Development Code (UDC). The proposed development of the Property entails the following:

1. Improvements in the flood plain in conjunction with a Flood Plain Development Permit approved by the City of San Antonio,
2. The construction of a 3,468 square-foot one story fast food restaurant with drive-through,
3. Parking, vehicular circulation, and assorted site improvements.

The Property is an existing commercially developed tract of land (0.70 Acres) with an existing one-story masonry restaurant building on-site (closed). Approximately 0.101 acres of the site sit in the regulatory flood plain and particular attention was taken when creating the site layout and final grading. The site is unique in that the typical floodplain / ESA buffer conditions usual associated with a floodway do not apply in this case. There has been significant urban development on this site as well as up and downstream from this point that has eliminated much of the ecosystem the trees are intended to protect. In support of this statement we have attached an exhibit labelled “Floodplain-ESA Areas” to illustrate how development has replaced most if not all of the ESA surrounding the site. There is also no defined floodway (stream, creek, and channel) that can be identified. It should be noted that most of the development in this area began in the early 1900’s when there was no established floodplain boundaries or restrictions from building within said floodplain. Much of the early inner city development followed this pattern.

Other issues affecting our ability to preserve 80% of the existing protected trees within the ESA was the additional requirements brought forward by TxDOT regarding vehicular circulation issues within the site with minimal access points to Broadway Street. The initial site plan layout was completed with the 80% requirements met but during the early stages of site permitting we were forced to redesign the site layout to gain approval from TxDOT for accessibility to Broadway Avenue. Initially the accessibility requirements to Broadway fell under the jurisdiction of the City of San Antonio (through agreement with TxDOT) and preliminary approval was given by HDRC and through the initial COSA pre-development meeting to proceed with the final design. As the agreements for redevelopment of Broadway between the City of San Antonio and TxDOT broke down in early August 2022 those jurisdictional approvals reverted to TxDOT and we were forced to redesign the project site plan to meet with TxDOT approval. As such, their directive was to circulate traffic from Broadway through the site onto Natalen Avenue to reduce cross traffic from the site entering/exiting onto Broadway within 150 feet of the existing signalized intersection at Funston Place.

Since our initial plan submittal and the subsequent comments, we have had the opportunity to analyze and make improvements to the layout, which has allowed us to now preserve the five (5) trees in the floodplain originally shown for removal. We have confirmed that the revised site layout will provide the required root protection zone area required to sustain tree life. As a result, the revised preservation rates are as shown in the separate floodplain and ESA tables below:

TREE INVENTORY: FLOOD PLAIN					
Tag #	Species	Significant Tree		Significant Tree**	
		Removed	Preserved	Removed	Preserved
119	HACKBERRY		9		
120	HACKBERRY		7		
121	HACKBERRY		8		
121A	HACKBERRY		5.3		
122	HACKBERRY		8		
123	HACKBERRY		8		
123A	HACKBERRY		5.5		
124	HACKBERRY		14		
Sub. Tot. Inches=		0	64.8	0	0
			64.8		0
Total inches by category=					
Preservation percentage=		Significant Preservation		100%	
Mitigation required (Commercial) =		Commercial (Inches)		-38.88	
Mitigation required (Residential) =		Residential (Inches)		-42.12	

TREE INVENTORY: ESA					
Tag #	Species	Significant Tree		Significant Tree**	
		Removed	Preserved	Removed	Preserved
118	PECAN	14			
Sub. Tot. Inches=		14	0	0	0
			14		0
Total inches by category=					
Preservation percentage=		Significant Preservation		0%	
Mitigation required (Commercial) =		Commercial (inches)		14	
Mitigation required (Residential) =		Residential (inches)		4.9	

As part of the overall preservation, the Mitigation Tables for the large significant trees indicate a preservation rate of 100% in the floodplain and 0% within the ESA. To mitigate the ESA shortage the owner intends to add an additional twenty-one inches (21") of tree plantings in the ESA as shown in the "Mitigation Summary: ESA" table below and the attached Landscape Plan Sheet S2 of S2.

MITIGATION SUMMARY: FLOODPLAIN		
<u>LARGE SIGNIFICANT TREE SUMMARY</u>	<u>Required</u>	<u>Provided</u>
64.8" Total Large Significant 64.8" x 80% = 51.8" (required preservation) 64.8" - 0" (total removed) = 64.8" remaining 100% tree preservation 0" mitigation	<u>0"</u>	<u>0"</u>
<u>TOTAL MITIGATION SUMMARY</u> N/A	<u>N/A</u>	<u>0"</u>
<u>INCHES TO BE MITIGATED BY PAYMENT</u> 0" x \$200/inch = \$0	<u>0"</u>	<u>0"</u>
MITIGATION SUMMARY: ESA		
<u>LARGE SIGNIFICANT TREE SUMMARY</u>	<u>Required</u>	<u>Provided</u>
14" Total Large Significant 14" x 80% = 11.2" (required preservation) 11.2"(required preservation) - 14" (total removed) = 0" remaining = 0% tree preservation 14" Mitigation OWED	<u>11.2"</u>	<u>0"</u>
<u>TOTAL MITIGATION SUMMARY</u> - (4) Mexican Sycamore @ 1.5" = 6" - (5) Red Oak @ 1.5" = 7.5" - (7) Texas Redbud @ 0.5" = 3.5" - (8) Tree Yaupon @ 0.5" = 4"	<u>14"</u>	<u>21"</u>
<u>INCHES TO BE MITIGATED BY PAYMENT</u> 0" x \$200/inch = \$0	<u>0"</u>	<u>0"</u>

Thus, the Owner requests a Variance from strict compliance with the UDC since the tree removal has been minimized and will not adversely affect the surrounding environmental elements. The conditions are such that the intended effect of preserving trees in these areas will essentially achieve the desired effect of protecting and/or enhancing the water quality, ecosystem and the aesthetic environment.

In support of the above AEVR allowing development of the Property without preserving a minimum 80% of the existing Significant Trees in-place within the ESA designated area, the Owner offers the following:

- (1) The hardship requiring this Variance is unique to the property. The Owner is making every effort to achieve the required 80% preservation, which was greatly impacted by the accessibility requirements set forth by TxDOT and approved by the city during those negotiations. TxDOT-directed accessibility required that we extend our vehicular circulation further into the property to achieve the connection to Natalen Avenue at the prescribed offset distance from the intersection per Traffic requirements set forth in the UDC. Sec 35-506 (r) (5)(B)(C)
- (2) The existing grades within the root protection zone of the preserved trees will be maintained with no cut and/or fill required. The grading plan has established the proposed adjacent pavement / top of curb elevations within 0.6 feet vertically of the grades in the RPZ.
- (3) 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.” In this case, due to the mandated traffic circulation/ drive layout to make the property viable for redevelopment, the Owner is unable to preserve 80% of the Significant Trees in the ESA.
- (4) The Owner has taken all practicable measures to minimize any potentially adverse impacts on the public health, safety, and welfare.

Additionally, as described specifically below, this Variance meets the approval criteria stipulated in UDC Sec. 35-483 (h):

- The hardship is unique in that it is not shared with any of the surrounding properties. If the applicants comply strictly with the required 80% ESA preservation rate they cannot make reasonable use of their property. The Owner has undertaken a significant amount of project redesign to comply with the mandated traffic circulation/ accessibility requirements as directed by TxDOT after the jurisdictional control reverted to TxDOT.
- The hardship in question relates to the Owner's land, rather than personal circumstance. This Variance is required because to accomplish the required vehicular access through the site the existing flood plain must be impacted in order to improve the site so the proposed buildings and site improvements may be built. In order to construct these necessary improvements, the Owner must undertake earthwork within and adjacent to the regulatory flood plain, resulting in in-place preservation of less than 80% preservation of the ESA existing Significant Trees.
- The granting of the exception 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.

- The hardship is not the result of the applicant's own actions. The mandated traffic circulation/ drive layout to make the property viable for redevelopment was at the request of other governmental agencies.

In conclusion, in my professional opinion granting this Variance and permitting the Owner to preserve less than 80% of the existing ESA significant trees in order to satisfy the required vehicular circulation requirements remains in harmony and in the spirit of the UDC and pose no threat to health, safety, or public welfare.

Thank you for considering the foregoing request.

Sincerely,

MACINA · BOSE · COPELAND AND ASSOCIATES, INC.
Texas Registered Engineering Firm F-784

Richard W. Hendrix, P.E.
Project Manager

Attachments: Floodplain – ESA Developed Areas Exhibit. Site plan and Landscape Softscape Plans (S1, S2) as submitted for Site Permit A/P# COM-PRJ-APP22-39802236

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:		