

STAFF REPORT

To: City Council
From: Public Works – Engineering Services
Date: October 03, 2024
Re: Variance Request: Application No. PV# 2024-01 - A variance request from the applicant Sitterle Homes LTD, on behalf of the property owner, Oak Bend Forest, L.C.

SUMMARY:

Current Zoning: Neighborhood Residential (NR)

Property Size: Oak Bend Subdivision - 149 acres (approximately)

Location: Oak Bend Subdivision is located north of the intersection of Ralph Fair Road and Honeycomb Rock (see attached Exhibit A: Oak Bend Subdivision Aerial Map). Street access to the property will be provided from Ralph Fair Road.

Use: The proposed use of single family residential is permitted by right in this zone.

Request: The applicant is seeking a variance to reduce the minimum street frontage from 150 feet to a range of 107.75–148.68 feet for 38 lots in the proposed 55-lot Oak Bend Subdivision Phase I, as listed below (see the consideration item for the Stone Creek Ranch 2B Preliminary Plat in this agenda package).

Proposed Lot Frontage

Lot Number	Proposed Frontage (LF)
3	148.68
4	132.07
5	132
6	148.5
11	146
12	146
13	146
14	146
15	146
16	146
17	146
18	146
19	146
20	146

Lot Number	Proposed Frontage (LF)
30	115.73
31	129.8
32	145.2
33	145.2
34	145.2
35	145.2
36	145.2
37	145.2
38	145.2
39	145.2
40	130.4
42	146
43	146
44	146

Lot Number	Proposed Frontage (LF)
21	146
22	146
26	146
27	146
28	146

Lot Number	Proposed Frontage (LF)
50	144
51	145.11
52	148.18
54	144
55	107.75

SITE HISTORY:

The previous approvals for the Oak Bend Subdivision are listed below:

- October 19, 2006 - Ordinance 153.0 was approved accepting the City of San Antonio's Ordinance 2006-6-29-9772 releasing approximately 3,258 acres of property directly adjacent to the North, East, and Southwest of Fair Oaks Ranch city limit line from the City of San Antonio's Extraterritorial Jurisdiction.
- October 19, 2006 - Ordinance 154.0 was approved voluntarily annexing the Grona Property into the City of Fair Oaks Ranch.
- September 2, 2008 - Water Supply Agreement for 15 years was executed between Oak Bend Forest, LC and the City of Fair Oaks Ranch for the reservation of water service capacity for 130 single-family Living Unit Equivalents ("LUE'S") on 149 acres.
- September 23, 2008 - The City and GBRA entered into a Second Amendment to the 2000 Agreement to increase the raw water reservation amount by 250 acre-feet per year and the annual commitment by 50-acre feet per year.
- August 21, 2009 - The City Council granted a variance to reduce the minimum lot size from 45,000 square feet to 43,560 square feet (one acre).
- February 17, 2011 - The City Council approved a subdivision plat of Oak Bend Estates consisting of 130 one-plus-acre lots. The lots widths generally ranged from 145 feet to 150 feet.
- February 16, 2017 – Ordinance 2017-02 approved amending Chapter 1; Article 1.02 of the City's Code of Ordinances by adopting vested rights pursuant to LGC 245 (Vested Rights). It provided an opportunity for landowners or developers to "grandfather" or "vest" government regulations that apply to development at the time of the filing of a permit application.
- May 2018 – The Planning & Zoning Commission ("P&Z") approved and advanced a preliminary report creating draft zoning district boundaries, inclusive of a draft zoning map. The City Council received the P&Z's preliminary report and conducted a joint public hearing with no action.
- June 2018 – The P&Z approved and advanced a final report to the City Council creating zoning district boundaries, inclusive of a zoning map. Ordinance 2018-05 adopting zoning district boundaries was approved by the City Council. The zoning map designated the subject property as Rural Residential (5+ acre lots) creating a conflict with the Agreement.

- October 17, 2022 – The City confirmed a vested right does exist for the Oak Bend Estates project as of September 2, 2008 (filing of plat).
- 2022-23 – At pre-development meetings with staff, the applicant indicated that the number of lots were reduced to preserve the geological features present on site.
- March 21, 2024 – Resolution 2024-13 extended the 2008 Water Supply agreement for 110 single-family Living Unit Equivalent (‘LUE’S’).
- June 20, 2024 – The City Council approved a Future Land Use Amendment application and a Rezoning application designating Oak Bend Estates as Neighborhood Residential (NR).
- August 15, 2024 - The applicant submitted a Preliminary Plat application for a 55 lot Oak Bend Subdivision Phase I and a variance request to reduce the minimum street frontage of 150 feet.
- On September 12, 2024, the Planning and Zoning Commission conducted a public hearing to receive public testimony on the variance. One resident spoke in support of the proposed variance. The commission approved a recommendation to City Council in support of the proposed variance.

REASON FOR THE REQUEST:

The lots in this proposed 55-lot Phase I subdivision will be served by private on-site sewage disposal systems (septic) and public water systems requiring a minimum of 150 feet street frontage. Thirty-eight (38) lots with street frontage less than the required 150 feet are proposed in this subdivision. This variance for Phase I will allow the plat to be approved as proposed. In case the variance is not granted, two options are available to the property owner - the reconfigured subdivision layout (in conformance with the minimum 150 feet street frontage requirement) with a reduction in the number of lots or revert back to the 2011 approved subdivision plat of 130 one-acre lots. While the property was platted in 2011, the 130-lot Oak Bend Estates subdivision was never developed. The applicant is now proposing to develop the subject parcel in two phases (Oak Bend Subdivision Phase I and Phase II) in a new configuration with 110 residential lots and an emergency access. There will be additional open space created to preserve the geological features onsite.

Summary of previous and current proposal

	Total number of lots in the entire development	Lot width (feet)		Common open space provided (acres)	Min. lot area (square feet)		Zoning
		Required	Provided (Approx.)		Required	Provided	
2011 Subdivision	130	150	145 - 150	None	45,000	43,560 (variance approved)	None (predated zoning)

2024 Subdivision	110	150	107 - 146 (38 out of 55 lots need variance)	9 approx. (reserve to protect geological features)	45,000 (public water and private septic)	43,560 (variance approved)	NR Neighborhood Residential
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PUBLIC NOTICES/COMMENTS:

A notice of the public hearing was published in the Boerne Star newspaper on August 25, 2024. As of this publication, staff has received two (2) public comments in favor of the request and five (5) in opposition. Of the seven comments

1. Three respondents live within the notification zone.
2. Six responded via comment cards and one respondent was heard at the Planning and Zoning Commission public hearing.

CRITERIA FOR REVIEW:

In accordance with UDC Section 3.9(9) Variance, in making the required findings, the City Council shall consider the following:

1. There are extraordinary or special conditions affecting the land involved such that strict application of the provisions of this Code will deprive the applicant of a reasonable use of its land. For example, a Variance might be justified because of topographic, or other special conditions unique to the property and development involved, while it would not be justified due to inconvenience or financial disadvantage;
2. The Variance is necessary for the preservation of a substantial property right of the applicant;
3. Granting of the Variance will not be detrimental to the public health, safety, or welfare, or injurious to other property in the area, or to the City in administering this Code;
4. Conditions that create the need for the Variance do not generally apply to other property in the vicinity;
5. Conditions that create the need for the Variance are not the result of the applicant's own actions;
6. Granting of the Variance would not substantially conflict with the Comprehensive Plan and the purposes of this Code; and
7. Because of the conditions that create the need for the Variance, the application of this Code to the property would effectively prohibit or unreasonably restrict the utilization of the property.
8. Insufficient Findings. The fact that property may be utilized more profitably should a Variance be granted may not be considered, standing alone, as grounds for a Variance. Additionally, the following types of possible findings do not constitute sufficient

grounds for granting a Variance:

- a. Property cannot be used for its highest and best use;
- b. There is a financial or economic hardship. There is a self-created hardship by the property owner his / her agent; or
- c. The development objectives of the property owner are or will be frustrated.

STAFF RECOMMENDATION:

Staff Analysis:

1. The proposed Oak Bend Subdivision Phase I consists of 55 lots. Of these, 38 lots do not meet the minimum required street frontage of 150 feet.
2. The street frontages for 38 lots range from 107.75 - 148.68 feet. Six lots are less than 145 feet street frontage, while 32 lots have a minimum street frontage of 145 feet.
3. The Oak Bend Subdivision was previously platted and recorded with similar reduced street frontages in 2011.
4. Additional features of the proposed Oak Bend Subdivision:
 - a. Reduction of lots (110 lots) as compared to the previously approved and recorded subdivision plat (130 lots)
 - b. Addition of nine (9) acres of open space to preserve Karst features (geological features)
 - c. Inclusion of an emergency access
5. The Oak Bend Subdivision is in Comal County; the County's minimum lot frontage requirement is 40 feet.

The City Council shall consider approving or denying the proposed variance request. The City Council may also choose to table the request if they determine additional information from the applicant is warranted. It should be noted that the requested variance aligns with the existing Water Supply Agreement which allows for the construction of 110 single family residential lots.

Exhibits

- A. Oak Bend Subdivision Aerial Map
- B. Zoning Map
- C. Notification Map
- D. Universal Application and Specific Application (Variance) including Supporting Documents
- E. Property Owner Response Map
- F. Property Owner Comment Forms