

MAYOR AND COUNCIL COMMUNICATION

DATE: February 7, 2023

TO: Mayor and Council

FROM: Melinda Moritz, Public Works Director

THROUGH: Crystal Caldera, City Manager

SUBJECT: Consider Approval of An Amendment to Previously Approved Resolution No. 22-009R Granting a Variance to Chapter 13, Tree Preservation, Article 13.02 Tree Preservation Ordinance, Division 3. Requirements and Restrictions, Sec. 13.02.074 Preservation requirements, Sec. 13.02.075 Removal, Replacement or Relocation of Small, Medium and Large Trees, Sec. 13.02.076 Replacement Trees Required, and Sec. 13.02.080 Heritage Tree Removal Prohibited; Penalties, (a) and (b), to Allow the Removal of an Additional 30 Medium, 14 Large, and 9 Heritage Trees and Pay a Larger Amount in Tree Mitigation Fees.

SPONSOR(S): None

PURPOSE

**Applicant/
Property Owner:**

Cude Engineering

Site:

The property is located at 7213 Huebner Road, being Poss Landing Subdivision, Blocks 1-5, CB 4446, on approximately ten (10) acres of land. The site is being developed into a gated residential subdivision of 86 new homes.

History:

11/2/21 - property rezoned from R-1 Single Family to a Planned Development District, with R-6 Garden Home based zoning.

5/3/22 - Resolution approved granting a Tree Variance Request

7/26/22 – Plat approved

Staff Comments:

- The previously approved Tree Variance indicated that 80 medium, 110 large, and 7 heritage trees were to be removed from the site to provide for construction, adequate circulation, and fire protection on the proposed site plan. The remaining 33 medium, 41 large, and 12 heritage trees on the tract were to be preserved.
- After design and layout of the subdivision, it was discovered that more area would

have to be graded to make room for homes, streets, drainage, etc. and this resulted in the necessity for removal of these additional trees.

- This request is to allow the removal of an additional 30 medium, 14 large, and 9 Heritage trees from this site and to allow an increase to the “cash in lieu of” tree mitigation fees.
- City Code mandates that for each medium tree removed, one tree of 6” or more in diameter be planted and for each large tree, one tree of 8” or more in diameter be planted.
- City Code prohibits the removal of any heritage trees, regardless of species.
- The Code further states that up to 25% of all required trees may be mitigated rather than preserved, unless insufficient land area exists on which to plant the required total caliper width of replacement trees, then the “cash in lieu of” amount may be increased up to 50% of the required replacement tree amount. They are requesting to mitigate 37% in fees.
- The applicant still intends to plant two 3” diameter trees per lot (86 x 2 = 172 trees), but the fee in lieu of would be increased from \$59,150 to \$135,150.
- City Code states that variances may be granted after consideration and recommendation by the City Council where literal enforcement of the provision of this article will result in unnecessary hardship. No variance may be granted unless:

- (1) Such variance will not be contrary to the public interest;
- (2) Such variance will be in harmony with the spirit and purposes of the article;
- (3) The variance sought is due to unique circumstances existing on the property, and the unique circumstances were not created by the owner of the property and are not merely financial;
- (4) The variance will not substantially weaken the general purposes of the Tree Preservation Ordinance.

SEE LEON VALLEY

- Social Equity - The request will facilitate the development of more housing in Leon Valley.
- Economic Development - The request will promote development and an increase in sales and property tax.
- Environmental Stewardship - The request will result in replacement trees being planted and will provide for the planting of trees on City property.

FISCAL IMPACT

The mitigation plan results in the planting of appropriate tree species and an increase of \$135,150 in the Tree Mitigation Fund, which supports additional tree planting at approved sites in Leon Valley. The increase in residential homes will increase the City’s sales and property tax base.

RECOMMENDATION

Staff recommends approval of this additional request. The property has already been rezoned and platted, and the applicant is ready to move forward with construction.

APPROVED: _____ DISAPPROVED: _____

APPROVED WITH THE FOLLOWING AMENDMENTS:

ATTEST:

SAUNDRA PASSAILAIGUE, TRMC
City Secretary