

MAYOR AND COUNCIL COMMUNICATION

DATE: June 20, 2023

TO: Mayor and Council

FROM: Melinda Moritz, Public Works Director

THROUGH: Crystal Caldera, City Manager

SUBJECT: Presentation, Discussion, and Possible Action to Amend Resolution No. 22-031R, Granting Mr. Samir Chehade, STS Partners, LP, a Variance to the City of Leon Valley Code of Ordinances, Chapter 13, Tree Preservation on a 9.174 Acre Tract of Land, Generally Located in the 6300 Block of Evers Road at the Corner of Evers and Seneca Roads, Being P-4A, ABS 530, CB 4432, to Reduce the Number and Size of Required New Trees and Tree Mitigation Fees

PURPOSE

Tree Preservation Variance Request No. 2023-01

**Applicant/
Property Owner:**

Mr. Samir Chehade, STS Partners, LP

Request:

To amend Resolution No. 22-031R, a variance to Chapter 13 Tree Preservation, Article 13.02 Tree Preservation Ordinance, Division 3. Requirements and Restrictions, Section 13.02.074 Preservation requirements, Section 13.02.076 Replacement trees required, and Section 13.02.077 - Mitigation in lieu of replacement, (b), to reduce the number and size of required new trees from two hundred (200) to eighty-five (85), from 3-inch diameter minimum to 1.5-inch diameter minimum, and to reduce the mitigation fees from \$94,600 to \$25,000.

Site:

The site consists of 9.174 acres of land, generally located in the 6300 block of Evers Road, being P-4A, ABS 530, CB 4432. This is a vacant lot at the corner of Evers and Seneca.

History:

In September of 2022, the City Council approved a Tree Variance Request on this property to allow the removal of 227 trees of various sizes, plant 200 new 3-inch diameter minimum trees, being two per lot, and pay mitigation fees in the amount of \$94,600. The applicant intends to construct single family housing on this site.

Since that time, the applicant has found that the property had previously been cleared and a large amount of unclassified fill material had been placed on the property, which must be remediated in order for development to occur. The trees that were left are the existing heritage Oak trees. Remediating the fill will require removing the majority of the post-fill trees on the property. A large percentage of these trees consist of either invasive or non-native species such as Chinaberry, Privets, and Chinese Pistache, or regrowth Mesquite and Hackberry. The applicant intends to preserve and protect the three (3) Heritage Oak trees that are on this property.

In addition, two trees per lot will not allow for prudent building construction, as the size of the trees over time may cause foundations and other structures to be compromised by tree location and root growth. This concern was voiced by the Tree Advisory Board Chairman when the Board made a recommendation on this case last summer.

Staff Comments:

- City Code states that variances may be granted after consideration and recommendation by the Tree Advisory Board and final approval of 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.

Alternatives:

- Approval of the amended variance.
- Approval of the amended variance with other mitigation measures.
- Denial of the amended variance.

SEE LEON VALLEY

- Social Equity - The request will facilitate the development of more affordable housing in Leon Valley.
- Economic Development - The request will promote development and an increase in sales and property tax.
- Environmental Stewardship - The request will still provide for the planting of

new trees of appropriate species for our area.

FISCAL IMPACT

The mitigation plan results in the increase of \$25,000 in the Tree Mitigation Fund, which supports additional tree planting at approved sites in Leon Valley. A variance would facilitate the development of housing alternatives and increase the city's sales and property tax base.

RECOMMENDATION

At City Council discretion.

APPROVED: _____ DISAPPROVED: _____

APPROVED WITH THE FOLLOWING AMENDMENTS:

ATTEST:

SAUNDRA PASSAILAIGUE, TRMC
City Secretary